

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CAROL A ROBINSON**  
Claimant

**APPEAL 17A-UI-02437-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GIT-N-GO CONVENIENCE STORES INC**  
Employer

**OC: 02/19/17  
Claimant: Respondent (2)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

The employer filed an appeal from the March 1, 2017, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 28, 2017. Claimant did not participate. Employer participated through supervisor Lanette Butt.

**ISSUES:**

Is the claimant partially unemployed and available for work?  
If so, is the employer's account liable for potential charges?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant currently works for employer as a part-time cashier. When claimant was initially hired, employer had full-time hours available. Claimant requested employer to only schedule her to work 30 hours or less per week so she would eligible for disability benefits. Employer reduced claimant's hours pursuant to her request.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

Iowa Code § 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19,

subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(16) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

Since claimant limited the number of hours she was available to or willing to work, she has not established her ability to or availability for work.

Since claimant is not eligible to receive benefits, the issues regarding whether she is eligible to receive partial benefits and the employer's account can be charged are moot and will not be discussed further in this decision.

**DECISION:**

The March 1, 2017, (reference 01) unemployment insurance decision is reversed. The claimant is not able to work and available for work effective February 19, 2017. Benefits are denied.

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Christine A. Louis  
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Decision Dated and Mailed

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