

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MICHELLE GARDINER
Claimant

APPEAL NO. 14A-UI-01948-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/19/14
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Michelle Gardiner (claimant) appealed a representative's February 12, 2014, decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she had no form of transportation. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on March 12, 2014. The claimant did participate. The claimant offered and Exhibit A was received into evidence.

ISSUE:

The issue is whether the claimant was able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 1, 2012, as a full-time packer. The claimant signed for receipt of the employer's handbook. The claimant was absent due to medical issues that were properly reported. Most of the medical issues were due to a work-related condition. The claimant provided the employer with doctor's notes for all of the absences. The employer issued the claimant warnings for her absences.

On January 9, 2014, the claimant's car broke down on the way to work. She was absent on January 9 and 10, 2014. The claimant properly reported her absences. The claimant returned to work using her daughter's vehicle. On January 15, 2014, the employer terminated the claimant for having too many attendance points.

The claimant filed for unemployment insurance benefits with an effective date of January 19, 2014. She had access to her daughter's vehicle to use to go to work or search for work until February 11, 2014, when the claimant's vehicle was repaired.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was available for work.

871 IAC 24.23(4) provides:

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

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. (See subrule 24.24(7).

When a claimant's has no means of transportation to employment, the claimant is deemed to not be available for work. The claimant's means of transportation was not lost because she had access to her daughter's vehicle and later her own vehicle. The claimant is not disqualified from receiving unemployment insurance benefits.

DECISION:

The representative's February 12, 2014, decision (reference 02) is reversed. The claimant is not disqualified from receiving unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css