

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
CHERL L DAWSON Claimant	APPEAL NO. 09A-UI-08123-E2T
TARGET CORPORATION Employer	ADMINISTRATIVE LAW JUDGE DECISION
	OC: 05/03/09 Claimant: Appellant (4)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 1, 2009, reference 01, which held claimant was not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on June 26, 2009. Claimant participated personally. Employer participated by Karla Bates.

ISSUE:

The issue in this matter is whether claimant is 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: The claimant has been employed by Target since 2003. In 2007 she switched to the “plan-a-gram crew.” The claimant's hours fluctuate depending on the work needs of the employer. The claimant's weekly benefit amount is \$145.00. The claimant's earnings for the week ending May 9 was \$331.00; \$331.00 for the week ending May 16; and \$202.00 for the week ending May 23. These amounts are too high for the claimant to receive unemployment benefits. The claimant earned \$36.00 for the week ending May 30, 2009 and \$143.00 for the week ending June 6, 2009.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 Code section 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".

The claimant is able and available. Her wages for the weeks ending May, 9, 16 and 23, 2009 do disqualify her for unemployment benefits. The claimant is eligible for the weeks ending May 30 and June 6, 2009.

DECISION:

The decision of the representative dated June 1 2009, reference 01, is modified in the claimant's favor. The claimant is eligible for benefits for the weeks ending May 30 and June 6, 2009. Claimant is eligible to receive unemployment insurance benefits, effective May 30, 2009, provided claimant meets all other eligibility requirements.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/pjs