

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BROOKE RUNNELLS
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL 15A-UI-00586-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/21/14
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able and Available
871 IAC 24.23(26) – Same Hours and Wages

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 7, 2015 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 5, 2015. Claimant participated. Employer participated through Sarah Fiedler, Human Resources Generalist.

ISSUE:

Was the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was last assigned to work at Weingard. She was told by Mike McCullough, the Team Staffing Solutions onsite employee, that the plant was going to shut down for twelve days over the Christmas holiday and that she did not need to return to Team Staffing since it was only a short term layoff. No witness for the employer could dispute the claimant's statements.

The claimant was laid off for lack of work for the two-week period ending January 3, 2015. She was available for additional work if the employer had any for her.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is 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(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant was able for work but she was specifically told by an employer representative that she was not required during the two-week shutdown to look for additional work. During the shutdown no work was available for her. Accordingly, benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The January 7, 2015 (reference 01) decision is reversed. The claimant is able to work and available for work effective December 21, 2014. Benefits are allowed, provided the claimant is otherwise eligible. .

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

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