

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NU T TRAN
Claimant

APPEAL NO. 09A-UI-17458-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOC SERVICES
Employer

OC: 10/25/09
Claimant: Appellant (1)

Iowa Code Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Nu Tran (claimant) appealed a representative's November 12, 2009 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she was working enough hours with IOC Services (employer) to be considered removed from the labor market. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 30, 2009. The claimant participated personally through Lena Hoang, Interpreter. The employer participated by Jamie Briesch, Employee Relations Supervisor.

ISSUE:

The issue is whether the claimant is eligible to receive unemployment insurance benefits.

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 February 14, 2005, as a part-time table games dealer. She later was working full time. On November 2, 2009, the employer changed the claimant's status back to part time based on business demands. The claimant is unwilling to work for any other employer.

REASONING AND CONCLUSIONS OF LAW:

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

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".

871 IAC 24.23(20) provides:

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

(20) Where availability for work is unduly limited because the claimant is waiting to be recalled to work by a former employer or waiting to go to work for a specific employer and will not consider suitable work with other employers.

The claimant only wants to work full time for this employer. When an employee limits her availability to work she is not eligible to receive unemployment insurance benefits. The claimant is disqualified for being unavailable for work.

DECISION:

The representative's November 12, 2009 decision (reference 02) is affirmed. She is disqualified for being unavailable for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css