

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARLA R ALLMAN
Claimant

APPEAL NO. 14A-UI-01201-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANN'S OTTUMWA LLC
Employer

OC: 02/10/13
Claimant: Appellant (1)

Section 96.4-3 – Able and Available
871 IAC 24.23(26) – Partial Unemployment

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated January 30, 2014, reference 02, that held she was still employed part-time at same hours and wages (not partially unemployed) as of January 5, 2014, and benefits are denied. A hearing was held on February 24, 2014. The claimant participated. Bess Long, Manager, participated for the employer.

ISSUE:

The issue is whether claimant is able and available to work.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds that: The claimant began working for the new ownership at a McDonalds on December 4, 2012. As a part-time employee cook, she signed a condition of employment agreement there was no guarantee of work hours.

Claimant was on a medical leave of absence from September 25, 2013 through November 5. She returned to work and went back to a normal part-time schedule in December. She filed an additional unemployment claim on January 5, 2014. Claimant is working a range from fifteen to twenty hours that is commensurate as to what she had worked in a prior year. There has been a work slow-down. Claimant is upset because the employer is not offering hours on days when she is not scheduled.

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".

871 IAC 24.23(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

The administrative law judge concludes claimant does not meet the availability requirements of the law and benefits are denied as of January 5, 2014.

While claimant has experienced a modest work reduction it is based on a seasonal work slow-down. Since she signed an agreement there is no guarantee for part-time employee work hours, this reduction does not make her partially unemployed.

DECISION:

The decision of the representative dated January 30, 2014, reference 02, is affirmed. The claimant does not meet the availability requirements of the law and benefits are denied.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs