

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**VICTORIA L MOSS**

Claimant

**APPEAL 22A-UI-04728-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TD&T CPAS AND ADVISORS PC**

Employer

**OC: 11/28/21**

**Claimant: Respondent (4R)**

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Iowa Code 96.4(3) – Able to and Available for Work

**STATEMENT OF THE CASE:**

On February 16, 2022, TD&T CPAs and Advisors PC (employer/appellant) filed an appeal from the Iowa Workforce Development (“IWD”) decision dated February 9, 2022 (reference 06) that allowed benefits as of December 19, 2021 based on a finding claimant as able to and available for work during a short-term layoff.

A telephone hearing was held on March 29, 2022. The parties were properly notified of the hearing. Victoria Moss (claimant/respondent) participated personally. Employer participated by HR Director Polly Heinen. Official notice was taken of the administrative record.

**ISSUES:**

Is 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 filed a claim for benefits each week from the benefit week ending December 4, 2021 and continuing through the benefit week ending January 1, 2022. Claimant’s first day of employment was December 6, 2021. Claimant was hired as a full-time executive assistant. Claimant’s immediate supervisor was Courtney Beronbe. The last day claimant worked on the job was December 16, 2021. At that time claimant gave employer notice of her intent to resign to accept work elsewhere but offered to continue working for two more weeks. Employer declined this offer and instead accepted her resignation effective immediately.

The issue of whether claimant’s separation from employment was disqualifying and whether employer’s account may be charged for benefits after the separation has not yet been the subject of an IWD fact-finding interview and determination.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the decision dated February 9, 2022 (reference 06) that allowed benefits as of December 19, 2021 based on a finding claimant as able to and available for work

during a short-term layoff is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth below.

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".

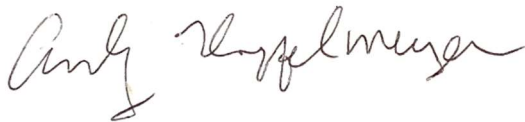
The administrative law judge finds claimant was able to and available for work and eligible for benefits in the weeks ending December 4 and December 25, 2021, and January 1, 2022. She was not available for work and therefore not eligible for benefits in the weeks ending December 11 and 18, 2021, as she was employed to such an extent in those weeks as to be unavailable for other work.

**DECISION:**

The decision dated February 9, 2022 (reference 06) that allowed benefits as of December 19, 2021 based on a finding claimant as able to and available for work during a short-term layoff is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth above.

**REMAND:**

This matter is remanded for determinations as to whether the separation from employment was disqualifying, whether employer's account should be charged for benefits paid based on the separation, and whether claimant has been overpaid benefits.



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Andrew B. Duffelmeyer  
Administrative Law Judge

April 4, 2022  
Decision Dated and Mailed

abd/abd