

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MELISSA N SHATAVA
Claimant

APPEAL 17A-UI-12454-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

STUECKRADT INC
Employer

OC: 11/05/17
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 28, 2017 (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant was not physically able to work. The parties were properly notified of the hearing. A telephone hearing was held on December 21, 2017. The claimant, Melissa Shatava, participated. The claimant, Melissa Shatava, participated. The employer, Stueckrad, Inc., participated through Steve Stueckrad, Owner; Carrie Green, Assistant Manager; and Amy Sawyer, Shift Leader.

ISSUE:

Is the claimant able to work and available for work effective November 5, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time, most recently as an assistant manager, for approximately eight or nine years. In September 2017, claimant sustained a non-work-related injury and was off work for about five weeks. On November 1, 2017, claimant reported back to the employer and stated she was able to work between twenty and twenty-four hours per week. On November 17 or 18, claimant's doctor released her to full-time work. Claimant is currently seeking full-time employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was able to work and available for work effective November 19, 2017.

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. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Here, claimant was released to work full-time hours effective November 17 or 18, 2017. Therefore, the following week, claimant was available for full-time work again. Claimant has established she was able to work and available for work effective November 19, 2017.

DECISION:

The November 28, 2017 (reference 02) unemployment insurance decision is modified in favor of claimant/appellant. Claimant was able to work and available for work effective November 19, 2017. Benefits are allowed, provided she is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn