

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AMANDA L PARROTT
Claimant

APPEAL 15A-UI-07930-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TARGET CORPORATION
Employer

**OC: 06/14/15
Claimant: Appellant (1)**

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 July 9, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 6, 2015. Claimant participated. Employer participated through the executive team leader of human resources, Kelsey Staten.

ISSUE:

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 was employed as a sales floor associate from November 17, 2014, and was separated from employment on July 17, 2015, when she quit.

Claimant was hired as a temporary employee until January 19, 2015 when she went to full status. Claimant worked as open availability from this time until mid-February when she went to closing only status at her request. The employer complied with claimant's request. Claimant then requested to go back to open availability a couple of months later; the employer granted this request too. While claimant was working under open availability, she was scheduled full-time and averaged 35 – 40 hours per week, unless she took time off. The week starting June 7, 2015, claimant was scheduled a full-time shift. Then the following week, starting June 14, 2015, claimant was only scheduled for 30 hours; this was based on business needs and claimant's 14 absences since January 1, 2015. Ms. Staten testified these hours could have gone up the next week. On June 20, 2015, claimant requested the employer only schedule her for Tuesday mornings. The employer complied with this request for the remainder of claimant's employment. On July 3, 2015, claimant gave the employer her two-week resignation notice, which the employer accepted. Claimant never asked to go from her requested one day a week schedule to her 35 – 40 hours per week schedule.

Claimant testified she left the employer to go work part time for a new employer, where she would work less hours but because the pay was greater, she would make approximately the same amount at her new employer per week as she did for Target Corporation working 35 - 40 hours per week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not 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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 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.

Iowa Admin. Code r. 871-24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

Since claimant limited the number of hours she could work to accept other employment, and the employer offered to allow claimant to work the hours she requested, the reduction in wages was not attributable to the employer. Accordingly, benefits are denied.

DECISION:

The July 9, 2015, (reference 01) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective June 20, 2015. Benefits are denied.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/css