

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LISA R SEDLACEK
Claimant

APPEAL NO. 08A-UI-10485-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 04/13/08 R: 03
Claimant: Respondent (1)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The employer, Hy-Vee, filed an appeal from a decision dated October 31, 2008, reference 03. The decision allowed benefits to the claimant, Lisa Sedlacek. After due notice was issued a hearing was held by telephone conference call on November 24, 2008. The claimant participated on her own behalf. The employer participated by Assistant Manager Chris Woodhouse and was represented by Unemployment Insurance Services in the person of Tim Speir

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Lisa Sedlacek was employed by Hy-Vee beginning September 3, 2008 as a part-time cashier. She was hired part-time without any guarantee of a minimum number of hours. She began working 20 hours per week but that was reduced to 16 hours per week when she was having trouble standing during her shift five days in a row.

The claimant was on workers' compensation from a previous employer when she was hired but has been released without restrictions just prior to filing an additional claim for benefits effective September 28, 2008. She is currently able to work full time.

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".

The claimant is now able to work full time hours and is able and available for work to the same extent as during her base period. Under the provisions of the above Code section, she is eligible for unemployment benefits.

DECISION:

The representative's decision of October 31, 2008, reference 03, is affirmed. Lisa Sedlacek is able and available for work and eligible for benefits, provided she is otherwise qualified.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs