

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LISA L SIKKEMA
Claimant

APPEAL NO. 09A-UI-08803-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEVENTH AVENUE INC
Employer

OC: 01/25/09
Claimant: Appellant (2)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Lisa Sikkema filed a timely appeal from a representative's decision dated June 9, 2009, reference 02, which denied benefits effective April 19, 2009, finding the claimant was not willing to work the number of hours required in her occupation. After due notice a telephone hearing was scheduled for and held on July 9, 2009. The claimant participated personally. Although duly notified the employer indicated in writing that they did not wish to participate. Exhibit D-1 was received into evidence.

ISSUE:

The issue in this matter is whether the claimant is unduly limiting her availability for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered the evidence in the record, finds: The claimant began employment with Seventh Avenue, Inc. dba The Swiss Colony in November 2008 and continues to be employed at the time of hearing. Ms. Sikkema holds the position of part-time return merchandise processor and is paid by the hour.

The claimant was temporarily laid off due to lack of work on or about April 19, 2009. Ms. Sikkema is willing to work hours offered by her employer and holds herself available for recall. The claimant has not imposed any limitations on the number of hours or days that she is willing to accept employment. The employer has specifically indicated that Ms. Sikkema is attached to the employment and will be called back when business conditions allow. (See Exhibit D-1).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant is able and available for work.

871 IAC 24.23(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The evidence in the record establishes that the claimant has been temporarily laid off work due to business conditions. Ms. Sikkema has an attachment to this employer and will be called back as soon as business conditions allow. The claimant has not imposed any limitations on the hours or days of work that are acceptable to her that would preclude her from being immediately recalled to available employment.

DECISION:

The representative's decision dated June 9, 2009, reference 02, is reversed. The claimant has not unduly limited her availability for work. The claimant is able and available for work and eligible to receive unemployment insurance benefits, providing that she meets all other eligibility requirements of the law.

Terence Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs