

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANNA R ZEDIKER
Claimant

APPEAL NO: 12A-UI-09700-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROBYN K RASKIN PC
Employer

OC: 04/15/12
Claimant: Appellant (2)

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

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's August 8, 2012 determination (reference 02) that held her ineligible to receive benefits as of April 15, 2012, because she devoted her time and availability to work on becoming self-employed. The claimant participated in the hearing. The employer responded to the hearing notice, but was not available for the hearing. A message was left for the employer to contact the Appeals Section immediately if she wanted to participate in the hearing, which the employer did not do. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant available to work and eligible to receive benefits as of April 15, 2012.

ISSUE:

As of April 15, 2012, is the claimant available for work or is she devoting her time and efforts to becoming self-employed?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of April 15, 2012. The claimant established her claim after the employer ended her employment. Prior to April 15, the claimant's friend and future business partner established a web site for a future business. Before the claimant's job ended, she and her partner worked on a loan application and submitted paperwork for a business loan. Initially, the claimant understood the business loan would be granted and she could open her new business in late April 2012. The claimant sent her former clients letters indicating she hoped to open her own business by April 23. Unfortunately, the bank loan was not granted as quickly as the claimant wanted. As of September 24, the bank loan has not yet been granted, but the claimant has been told she will learn the status of the loan by late September.

From April 15 through the date of the hearing, the claimant has been on a holding pattern because she is waiting for the business loan to go through. As a result of waiting for the business loan, the claimant has spent zero to no more than five hours a week on developing her own business. Since April 15 the claimant has been actively looking for work. She accepted an adjunct teaching job in August and teaches one class a week.

The record indicates the claimant has filed weekly claims since April 15, 2012.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4(3). The law presumes a claimant is not available to work if she devotes her time and efforts to becoming self-employed. 871 IAC 24(23)7.

The evidence establishes that as of April 15, the claimant spent no more than five hours a week on becoming self-employed because she and her business partner were waiting for their business loan to be granted. The claimant prepared and completed the business loan application before April 15. Her business partner made arrangement in late 2011 for a business web site. Even though the claimant hoped her new business would be open by April 23, this did not happen. As of the date of the hearing, September 24, 2012, the claimant was still waiting for the business loan to be granted or denied.

Since April 15, 2012, the evidence establishes the claimant has been actively looking for work and accepted an adjunct teaching position that allows her teach one class a week. The claimant established she is able to and available for work as of April 15, 2012. Therefore, she is eligible to receive benefits as of April 15, 2012.

DECISION:

The representative's August 8, 2012 determination (reference 02) is reversed. The claimant is able to work and available for work. While the claimant had hoped to open her own business by April 23, this did not happen. As of April 15, 2012, the claimant is not devoting her time and effort to becoming self-employed. Instead, she has been looking for work and is eligible to receive benefits as of April 15, 2012.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw