

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**NORA C HOOKS**  
Claimant

**IOWA HOME CARE LLC**  
Employer

**APPEAL NO. 19A-UI-07239-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/07/19**  
**Claimant: Appellant (4)**

Iowa Code Section 96.4(3) – Able & Available  
Iowa Code Section 96.19(38)(c) – Temporary Employment Unemployment

**STATEMENT OF THE CASE:**

Nora Hooks filed a timely appeal from the September 12, 2019, reference 05, decision that denied benefits effective July 21, 2019, based on the deputy's conclusion that Ms. Hooks was unduly restricting her availability for work. After due notice was issued, a hearing was held on October 4, 2019. Ms. Hooks participated. The employer did not respond to the hearing notice instructions to register a telephone number for the hearing and did not participate. Exhibit A was received into evidence. The administrative law judge took official notice of the Agency's administrative record of Ms. Hooks' weekly claims (KCCO) and of the benefits disbursed to the claimant (DBRO).

**ISSUES:**

Whether the claimant was able to work and available for work during the three weeks between July 21, 2019 and August 10, 2019.

Whether the claimant was temporarily unemployed during the three weeks between July 21, 2019 and August 10, 2019.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Nora Hooks established an original claim for benefits that was effective July 7, 2019. Iowa Workforce Development set Ms. Hooks' weekly benefit amount at \$500.00. Iowa Workforce Development categorized Ms. Hooks as a job-attached claimant. At the time Ms. Hooks established her claim for benefits, she was employed by Iowa Home Care, L.L.C. as a full-time Licensed Practical Nurse. Ms. Hooks' work involved providing her assigned clients with in-home nursing care. During the weeks that ended July 13, July 20, July 27 and August 3, 2019, Ms. Hooks was available to perform full-time nursing duties for the employer, but the employer did not have work for her. Before Ms. Hooks established her unemployment insurance claim, she had recently experienced a workplace injury, but had recovered from the injury and had been released to return to work without restrictions. At the time of the injury, Ms. Hooks had been caring for an adult client. Following the injury and Ms. Hooks' recovery from the injury, the

employer decided to no longer have Ms. Hooks work with adult clients due to what the employer perceived to be a risk a further injury. Ms. Hooks had not asked to be removed from serving adult clients. The employer decided instead to only consider assigning Ms. Hooks to care for pediatric clients. Ms. Hooks remained available for both types of work. However, the employer waited until the week of August 4-10, 2019 to assign a new client to Ms. Hooks. Ms. Hooks returned to full-time employment at that time and worked full-time during the week that ended August 10, 2019. Ms. Hooks discontinued her unemployment insurance claim following the benefit week that ended August 10, 2019.

## **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".

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.

An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's

employment, although temporarily suspended, has not been terminated. Iowa Code Section 96.19(38)(c).

Because the September 12, 2019, reference 05, denied benefits effective July 21, 2019, the administrative law judge need only consider the period beginning July 21, 2019. The evidence in the record establishes that Ms. Hooks was physically and mentally able to perform full-time work for the employer and available to perform full-time work for the employer during each of the three weeks between July 21, 2019 and August 10, 2019. During the weeks that ended July 27 and August 3, 2019, the employer did not have work for Ms. Hooks and Ms. Hooks was temporarily laid off. Ms. Hooks is eligible for benefits for those two weeks, provided she meets all other eligibility requirements. The employer's account may be charged for benefits for those weeks. During the week that ended August 10, 2019, Ms. Hooks was back to working full-time and therefore was no longer eligible for unemployment insurance benefits. See Iowa Administrative Code Rule 871-24.23(23).

**DECISION:**

The September 12, 2019, reference 05, decision is modified as follows. During the weeks that ended July 27 and August 3, 2019, the claimant was able to work, available for work, but temporarily laid off. The claimant is eligible for benefits for those two weeks, provided she meets all other eligibility requirements. The employer's account may be charged for benefits for those weeks. During the week that ended August 10, 2019, the claimant was working full-time, no longer met the availability requirement, and was not eligible for benefits for that week.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs