

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ASHLEY M PLEDGE
Claimant

APPEAL NO. 11A-UI-12133-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

RAPID-MAC INC
Employer

**OC: 07/31/11
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated September 9, 2011, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 10, 2011. The claimant participated. Ashley Johnson and Emanuel King were witnesses for the claimant. Employer participated by David Spitzer, store manager. The record consists of the testimony of David Spitzer; the testimony of Ashley Pledge; the testimony of Ashley Johnson; and the testimony of Emanuel King.

ISSUE:

Whether the claimant was able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer operates a McDonald's restaurant in Cedar Rapids, Iowa. The claimant was hired on February 18, 2010, as a part time cook and cashier. No hours were guaranteed to the claimant when she was hired.

On or about July 8, 2011, the claimant changed her availability for work. She had previously worked day shifts. She was now only available for night shifts from 6:00 p.m. to closing. She lost her daytime child care and only had child care in the evenings. The claimant worked less hours after she switched from days to nights.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 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.

The evidence in this case established that the claimant voluntarily changed her availability to work at the restaurant from days to nights because she no longer had child care during the days. Fewer hours were available to her on the night shift than on the day shift. The claimant restricted her availability to work because of child care considerations and was not willing to work during times the restaurant was open. She is unavailable for work and is disqualified for that reason from receiving benefits.

DECISION:

The representative's decision dated September 9, 2011, reference 01, is affirmed. Unemployment insurance benefits are denied as of July 31, 2011, because the claimant is not available to work.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw