

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRENDA WILDE
Claimant

APPEAL NO. 10A-UI-13572-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEX MEDIA SERVICE LLC
Employer

OC: 07/11/10
Claimant: Appellant (2)

Iowa Code § 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

Brenda Wilde (claimant) appealed an unemployment insurance decision dated September 24, 2010, reference 02, which held that she was not eligible for unemployment insurance benefits because she was not available for work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 16, 2010. The claimant participated in the hearing with union members Jim Perkey and Jennifer Witstock. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was discharged from Dex Media Service, LLC on June 28, 2010; she was not on a voluntary leave of absence. She filed her claim for unemployment insurance benefits effective July 11, 2010. Although the claimant's mental health provider advised her not to get a high-stress job, she was physically and mentally able to work anywhere else.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant is able and available for work. In order for an individual to be eligible to receive unemployment insurance benefits, the evidence in the record must establish that she is able to work, available for work, and earnestly and actively seeking work.

Iowa Code § 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 has the burden of proof in establishing her ability and availability for work. Davoren v. Iowa Employment Security Commission, 277 N.W.2d 602 (Iowa 1979). She has sufficiently demonstrated to the administrative law judge that she has no restrictions on her availability to work. The claimant meets the availability requirements of the law and benefits are allowed.

DECISION:

The unemployment insurance decision dated September 24, 2010, reference 02, is reversed. The claimant is eligible for unemployment insurance benefits, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw