

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EDDIE M GOODWIN
Claimant

APPEAL NO. 08A-UI-06938-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACCESS DIRECT TELEMARKETING INC
Employer

OC: 06/08/08 R: 03
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Eddie Goodwin (claimant) appealed a representative's July 21, 2008 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work from June 8, through 21, 2008, with Access Direct Telemarketing (employer). The claimant participated personally. The employer did not provide a telephone number where it could be reached and, therefore, did not participate in the hearing.

ISSUE:

The issue is whether the claimant was 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 hired on May 16, 2005, as a full-time telephone sales representative. In early June 2008, the employer asked the claimant and others if they would like to sign a document agreeing they could be sent home from work during the two-week period ending June 21, 2008. The document stated that it was possible the employer would allow the workers to make up the hours. The claimant signed the document.

During the two-week period ending June 21, 2008, the claimant worked 90 minutes. The employer did not have any additional hours available for the claimant.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant was not available for work for the two-week period ending June 21, 2008.

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".

871 IAC 24.23(29) provides:

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

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

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 claimant was hired as a full-time worker. She is still employed in a full-time position as was agreed to at the time she was hired. The claimant is not considered unemployed. When an employee agrees to take time off or not work the normal hours of her job, she is considered to be unavailable for work. The claimant agreed to a reduction of her hours and the employer granted her request. She is considered to be unavailable for work for the two-week period ending June 21, 2008.

DECISION:

The representative's July 21, 2008 decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits for the two-week period ending June 21, 2008, because she was not available for work with the employer.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw