

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**RACHEL BOETTGER**  
Claimant

**APPEAL 21A-UI-15464-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JOHNSTON COMMUNITY SCHOOL DIST**  
Employer

**OC: 04/11/21  
Claimant: Appellant (1)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2)i(1) – On-Call Workers

**STATEMENT OF THE CASE:**

On July 9, 2021, claimant Rachel Boettger filed an appeal from the June 30, 2021 (reference 01) unemployment insurance decision that denied benefits based on a determination that claimant was an on-call worker. The parties were properly notified of the hearing. A telephonic hearing was held at 11:00 a.m. on Wednesday, September 1, 2021. Appeal numbers 21A-UI-15463-LJ-T and 21A-UI-15464-LJ-T were heard together and created one record. The claimant, Rachel Boettger, participated. The employer, Johnston Community School District, did not register a witness and did not participate in the hearing. Claimant's Exhibit A was received and admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Effective April 11, 2021, is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer Johnston Community School District as a childcare provider in January 2017. Claimant typically works part-time hours during the school year and full-time hours during the summer.

When the COVID-19 pandemic hit in March 2020, claimant was temporarily laid off. The employer closed its schools pursuant to a proclamation from Governor Reynolds, and there was no work available for claimant or any other employee for the remainder of the school year. During the summer of 2020, claimant worked for the employer as an on-call, substitute childcare provider. She attended two meetings and worked two shifts the entire summer.

The employer had limited work available during the 2020-21 school year, due to the pandemic. Claimant worked during the school year as an on-call, substitute childcare provider again. She

was never called to come in and work during the school year. Claimant continued to work for the employer in this on-call capacity during the summer of 2021.

Claimant is a full-time student. She also has two step-daughters at home who were attending online learning during the pandemic. Claimant was busy with her own schooling and her children's schooling, and she was not looking for any work. Claimant explained she was holding herself available for the school district, should they ever call and need her to come into work.

A disqualification decision was mailed to claimant's last known address of record on March 9, 2021. She did receive the decision sometime in March 2021. The first sentence of the decision states, "If this decision denies benefits and is not reversed on appeal, it may result in an overpayment which you will be required to repay." The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by March 19, 2021. The appeal was not filed until July 9, 2021, which is after the date noticed on the disqualification decision. Claimant explained that she and her husband were talking about what steps to take in response to the decision and were working on the appeal, but they did not send it in. Claimant then received the decision dated June 30, 2021, and she promptly filed an appeal.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant is not available for work. Benefits are withheld.

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".

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.

Iowa Admin. Code r. 871-24.22(2)i(1) provides:

Benefit 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.

i. On-call workers.

(1) Substitute workers (i.e., post office clerks, railroad extra board workers), who hold themselves available for one employer and who do not accept other work, are not available for work within the meaning of the law and are not eligible for benefits.

In order to be eligible for benefits, an individual must establish she is able to work and available for work. Here, claimant testified that she has been holding herself available solely for the Johnston Community School District. Claimant's status as an on-call substitute childcare provider and her decision to reserve all of her time for one employer renders her unavailable within the meaning of the law. Benefits must be withheld.

**DECISION:**

The June 30, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant is not available for work within the meaning of the law, as she is an on-call worker holding herself available solely for one employer. Benefits are withheld.



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Elizabeth A. Johnson  
Administrative Law Judge

September 9, 2021  
Decision Dated and Mailed

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