

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KYLIE K OLIVER
Claimant

APPEAL NO. 11A-UI-12674-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 07/17/11
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 19, 2011, reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on October 24, 2011. Claimant participated personally. Employer participated by Jack Fiorelli, Hearing Representative Corporate Cost Control and witness Jackie Keunnen, Human Resource Manager.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant works for employer part time. Claimant also goes to school. Claimant asked employer to cut her hours in 2010 so she could attend classes. Employer is offering claimant all the hours and wages that she can handle at this time.

REASONING AND CONCLUSIONS OF LAW:

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".

Inasmuch as the claimant is in school and not available for additional hours, she is not able and available for work. Benefits are withheld until such time as the claimant is available for full-time work. Benefits shall be withheld effective July 17, 2011.

DECISION:

The decision of the representative dated September 19, 2011, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective July 17, 2011, until claimant meets all other eligibility requirements.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs