

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AMY SKINNER
Claimant

APPEAL 18A-UI-05908-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**DAVENPORT COMMUNITY
SCHOOL DISTRICT**
Employer

**OC: 04/29/18
Claimant: Appellant (2R)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 17, 2018, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 14, 2018. Claimant participated and was represented by Christy Hickman, Attorney at Law. Employer participated through Dr. Erica Goldstone, Director of Human Resources.

ISSUE:

Was the claimant able to and available for work effective April 27, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On April 27, the employer placed the claimant on administrative leave with pay. The claimant did not request the leave; it was the employer's decision to place her on leave. The claimant had no restrictions on her employability and at that time was willing to continue working for the employer. As the claimant was employed as a teacher, she will be paid through her contract year which ends in September 2018.

After the claimant was placed on administrative leave, at some point later she was separated from this employer. There has been no fact-finding interview or determination on the claimant's permanent separation from this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

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".

4.52(8) Wages earned and payment deferred. Many school employees receive remuneration from their school employers on a 12-month basis for the 9-month period worked. Deductions from unemployment insurance payments are on a "when earned" basis rather than on a "when paid" basis. Deferred wages currently paid which are based on earnings from a prior period are not deductible on a current week claimed pursuant to Iowa Code section 96.19(9)"b" and paragraph 24.13(2)"o."

Claimant has no medical restriction or other limitation on her employability effective April 27, 2018. Accordingly, benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The May 17, 2018, (reference 01) decision is reversed. The claimant is able to work and available for work effective April 27, 2018. Benefits are allowed, provided the claimant is otherwise eligible.

REMAND:

The claimant's separation from her employment is remanded to the UISC for an initial review and determination. The claimant's attorney Christy Hickman shall be included on the notice of the fact-finding interview so that she may participate on behalf of the claimant.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs