

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TRESICA M ARCEO**  
Claimant

**APPEAL NO: 12A-UI-13524-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ABCM CORPORATION**  
Employer

**OC: 10/21/12**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Tresica Arceo (claimant) appealed a representative's November 7, 2012 decision (reference 03) that concluded she was not willing to work with ABCM Corporation (employer) the usual number of hours in her occupation. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 12, 2012. The claimant participated personally. The employer participated by Tiffany Adams, Human Resources Coordinator.

**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 considered all of the evidence in the record, finds that: The claimant was hired on May 2, 2005, as a full-time developmental assistant. On May 16, 2012, the claimant was released to work with restrictions by her physician. The claimant's last day of work was May 30, 2012. She was granted twelve weeks of Family Medical Leave (FMLA) starting May 31, 2012. On June 29, 2012, she told the employer she wanted to take her 401K money to save her home. The claimant knew she had to quit her job and lose the rest of her FMLA time. The claimant resigned effective June 29, 2012. Continued work was available had the claimant not resigned. The claimant was released to return to work without restrictions on October 15, 2012. She filed for unemployment insurance benefits on October 21, 2012.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is able and available for work.

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.

When an employee requests and is granted time off, she is considered to be unavailable for work. The claimant requested time off and the employer granted her request. The change in hours was initiated by the claimant. She is considered to be unavailable for work from May 30, 2012. The claimant is disqualified from receiving unemployment insurance benefits from May 30, 2012, due to her unavailability for work.

**DECISION:**

The representative's November 7, 2012 decision (reference 03) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she is not available for work.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/css