

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LISA R COLLINS
Claimant

APPEAL NO. 16A-UI-11926-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLGENCORP LLC
DOLLAR GENERAL
Employer

OC: 09/25/16
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Lisa Collins (claimant) appealed a representative's October 26, 2016, decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she was not willing to work during the time work in her occupation was often done with Dollar General (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 18, 2016. 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. Exhibit D-1 was received into evidence.

ISSUE:

The issue is whether the claimant is 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 in June 2015, as a part-time lead associate consistently working twenty-five to thirty-six hours per week. She worked during the week and on weekends. When she started working, the claimant and her co-workers rotated weekend hours. As time went on, there was a new supervisor and the claimant was working most of the weekend hours.

In early August 2016, the claimant mentioned to her supervisor that she would like to share weekend hours with her co-workers again. The claimant suggested that she work every other weekend or one day per weekend and share the load with the other lead associates. The claimant did not suggest that her hours be reduced. The two discussed the possibilities. The claimant asked what would happen if she stepped down. The supervisor told her that her pay would be reduced. The claimant said she would think about it.

On August 8, 2016, the claimant told the employer she thought about it and did not want to step down. On August 15, 2016, the supervisor instructed the claimant to train others to perform her duties. The claimant filed for unemployment insurance benefits with an effective date of

September 25, 2016, because the employer reduced the claimant's hours. On October 7, 2016, the claimant was made an associate. The claimant was always available for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able and available for work as of September 25, 2016.

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".

There was no evidence that there were any restriction or limitation on employability. The employer reduced the claimant's hours because the claimant expressed an idea about shifts. The employer rewarded the claimant by reducing her hours. Accordingly, benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's October 26, 2016 decision (reference 02) is reversed. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs