

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINA THOMAS
Claimant

APPEAL NO: 16A-UI-11917-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 10/09/16
Claimant: Appellant (1)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 1, 2016, reference 04, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on November 18, 2016. The claimant participated in the hearing. Melissa Lewien, Risk Management, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time agricultural general laborer for Advance Services last assigned to Pioneer from August 10, 2016 to October 10, 2016. Following the completion of that assignment, the employer had other work available but the claimant repeatedly cited the fact she did not have childcare available in declining to contact or meet with the employer about subsequent assignments. The employer called the claimant November 9, 2016, and the claimant stated she accepted another position.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not able and available for work until November 9, 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".

The claimant limited her employability by stating she did not have childcare from October 11 through November 8, 2016. By doing so the claimant has unduly limited her availability and cannot be considered able and available for work through the week ending November 12, 2016. Accordingly, benefits must be denied.

DECISION:

The November 1, 2016, reference 04, decision is affirmed. The claimant was not able and available through the week ending November 12, 2016. Therefore, benefits are denied.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/rvs