

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSAN J MUSICH

Claimant

APPEAL NO: 14A-UI-03782-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MIDWEST PROFESSIONAL STAFFING LLC

Employer

OC: 02/02/14

Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Susan J. Musich (claimant) appealed a representative's April 3, 2014 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits between March 9 and March 29, 2014 because of not being able and available for work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 29, 2014. The claimant participated in the hearing. Kelli Palazzo appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

FINDINGS OF FACT:

The claimant worked on a contract or project assignment basis for the employer from May through August 2013 and from September 13 through September 24, 2013, working as a paralegal and secretary for the employer's business clients. The claimant kept in touch with the employer as far as the possibility of other potential assignments. On March 7 the claimant informed the employer that she had located new full-time employment; that employment was to start on March 31. The employer assumed that during the interim she would not be available for other work and stopped considering the claimant for assignments. The claimant, however, was merely giving the employer advance notice that she would not be available for further work in the future after she began her new employment; if there had been short-term work available before she started the new job, she would have been willing and able to do so. The employer made no offers of any other work to the claimant after March 7.

REASONING AND CONCLUSIONS OF LAW:

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, is available for work, and is earnestly and actively

seeking work. Iowa Code § 96.4-3. While the claimant may no longer have intended to or needed to seek work after she started a new job on March 31, her announcement of this fact to the employer did not mean that she ceased to be available for work prior to March 31. The best method of testing availability for work is an offer of work or job test. Rule 871 IAC 24.22(2)(b). The employer did not test the claimant's availability for any short term work after March 7, but rather concluded that since she was going to be entering into a full time position, she would no longer be considered for any other positions. Benefits are allowed from March 9 through March 29, if the claimant is otherwise eligible.

DECISION:

The representative's April 3, 2014 decision (reference 01) is reversed. The claimant was able to work and available for work from March 9 through March 29, 2014. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css