

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURA RAYA
Claimant

APPEAL NO. 13A-UI-02756-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CMB REGIONAL CENTERS
Employer

OC: 01/01/12
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 27, 2013, reference 03, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on April 3, 2013. Claimant participated personally. Employer participated by Nikki Frank, Assistant and Pam Ellis, Vice President Company Operations.

ISSUE:

The issue in this matter is whether 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: Claimant worked as an independent agent for Farmers Insurance effective November 4, 2012. Claimant worked about 30 hours per week. Claimant started a new job December 19, 2012 as an employee as opposed to an independent contractor.

REASONING AND CONCLUSIONS OF LAW:

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".

Inasmuch as the claimant is working 30 hours per week she is devoting the majority of her time to self employment. This unduly limits her ability to work full time at other gainful employment. Benefits are withheld effective November 4, 2012 because claimant is not able and available for full-time work.

DECISION:

The decision of the representative dated February 27, 2013, reference 03, is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective November 4, 2012, until claimant meets all other eligibility requirements.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css