

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAUREN J MILLER
Claimant

APPEAL NO. 09A-UI-07201-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

**Original Claim: 03/29/09
Claimant: Respondent (1)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated May 5, 2009, reference 01, which held claimant able and available for work. After due notice, a telephone conference hearing was scheduled for and held on June 4, 2009. Employer participated by Daniel Speir, Employer Representative. Claimant failed to respond to the hearing notice and did not participate. Exhibits One and A were admitted into evidence.

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 having considered all of the evidence in the record, finds: Claimant worked in the pizza area at about 20 to 25 hours per week. Claimant's work was not up to the employer's standards and she was transferred to pushing carts at 12 hours per week.

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".

Benefits shall be allowed effective March 29, 2009. Claimant is able for full-time work. The hours were reduced because employer transferred claimant without her permission to another job at significantly reduced hours. While this was a disciplinary measure, it does not remove claimant from the job market. Claimant is able and available for work.

DECISION:

The decision of the representative dated May 5, 2009, reference 01, is affirmed. Claimant is eligible to receive unemployment insurance benefits, effective March 29, 2009, provided claimant meets all other eligibility requirements.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw