

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

LINDA VAN TUYL
Claimant

APPEAL NO: 19A-UI-02392-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 10/28/18
Claimant: Appellant (1R)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 11, 2019, (reference 03) unemployment insurance decision that denied benefits. The claimant was properly notified about the hearing. A telephone hearing was held on April 4, 2019. The claimant participated. Claimant Exhibit 1 was admitted. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant able to work and available for work effective February 10, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for unemployment insurance benefits effective October 28, 2018, in response to her separation as a cashier for IMKO.

She has been searching for part-time work as a cashier or receptionist, but is restricting her search to accepting positions that will offer only ten to twelve hours per week. The claimant stated she cannot perform work for fifteen or twenty hours due to her physical health. Specifically, she stated she cannot walk or stand, and being seated too long hurts her back. She did not provide IWD a doctor's note outlining current medical restrictions.

The claimant recently refused an offer of work with Iowa Vocational Rehabilitation Services in Sioux City. That work refusal has not yet been adjudicated by the Benefits Bureau.

REASONING AND CONCLUSIONS OF LAW:

For an individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The claimant has the burden to show he is able to work, available for work, and

earnestly and actively seeking work. The unemployment insurance rules require that an individual be physically and mentally able to work in some full time gainful employment, not necessarily in the individual's customary occupation, but a job which is engaged in by others as a means of livelihood. 871 IAC 24.22(1).

Iowa Admin. Code r. 871-24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

Iowa Admin. Code r. 871-24.23(16) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

In this case, the evidence fails to establish the claimant is able to and available for work as defined by the unemployment insurance law. The claimant is restricting her ability to accept positions because she is unduly limiting the hours she is willing to work. The claimant is voluntarily limiting her hours based upon back and physical pain. The administrative law judge is sympathetic to the claimant but based on the evidence presented, she does not meet the eligibility requirements. Accordingly, benefits are denied effective February 10, 2019.

REMAND: The work refusal issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The March 11, 2019, (reference 03) decision is affirmed. The claimant is not able to and available for work effective February 10, 2019. Benefits are denied. If the circumstances change and claimant believes the disqualification can be removed, she should contact Iowa Workforce Development.

REMAND: The work refusal issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn