

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

FELISHA M ROBERTSON
Claimant

SEDONA STAFFING INC
Employer

APPEAL NO. 21A-UI-07137-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/23/20
Claimant: Respondent (2)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 1, 2021, reference 09, decision that held the claimant was eligible for benefits for the period beginning February 7, 2021, provided the claimant was otherwise eligible, based on the deputy's conclusion that the claimant was able to work and available for work. After due notice was issued, a hearing was held on May 18, 2021. The claimant did not provide a telephone number for the hearing and did not participate. Colleen McGuinty represented the employer. Exhibit 1, the appeal letter, and Exhibit 2, the notice of claim/protest, were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO and WAGE-A.

ISSUE:

Whether the claimant was able to work and available for work for the period beginning February 7, 2021.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective August 23, 2020 and an additional claim for benefits that was effective February 7, 2021. The present matter concerned the claimant's eligibility for benefits for the period after she established the February 7, 2021 additional claim.

Until the claimant established the additional claim, the claimant was disqualified for benefits based on a discharge from an employment other than employment with this named employer in interest, Sedona Staffing.

The claimant was employed with Sedona Staffing for a brief period during the second quarter of 2020 and separated from Sedona Staffing on May 30, 2020. Sedona Staffing is not a base period employer for purposes of the claim year that began for the claimant on August 23, 2020.

The claimant had three additional employments subsequent to separating from this employer. It is unclear why this employer was listed as the named employer in interest in connection with the

March 1, 2021, reference 09, decision. This employer has no information regarding whether the claimant has been able to work and available for work since February 7, 2021.

By the time of the appeal hearing, the claimant has made weekly claims for each consecutive week between February 7, 2021 and May 15, 2021. IWD has the claimant categorized as a Group 3, job-attached claimant. That categorization appears to be based on information the claimant provided at the time she established the original claim and may or may not be accurate. The claimant is not attached to this employer and has not been attached to this employer since May 30, 2020. Because IWD has the claimant coded as job-attached, the weekly claim reporting system did not prompt the claimant to report job contacts.

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".

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

The claimant did not participate in the appeal hearing and did not present any evidence to meet her burden of proving she has met the able and available requirements since she established the additional claim for benefits that was effective February 7, 2021. For that reason, benefits are denied effective February 7, 2021.

DECISION:

The March 1, 2021, reference 09, decision is reversed. The claimant presented no evidence to show she has met the able and available requirements since she established the additional claim for benefits that was effective February 7, 2021. Accordingly, benefits are denied effective February 7, 2021.

A handwritten signature in cursive script that reads "James E. Timberland". The signature is written in black ink on a light gray rectangular background.

James E. Timberland
Administrative Law Judge

September 16, 2021
Decision Dated and Mailed

jet/scn