

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

YOLANDA Y GEORGE
Claimant

APPEAL NO. 17A-UI-08295-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES USA LLC
Employer

OC: 12/18/16
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Yolanda George (claimant) appealed a representative's August 11, 2017, decision (reference 09) that denied unemployment insurance benefits because she was not available for work with Kelly Services USA (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 31, 2017. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

ISSUE:

The issue is whether the 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 that: The claimant worked for the employer from February 23, 2017, to July 3, 2017, as a full-time employee. As of July 3, 2017, the claimant believed she should work part-time hours for a number of reasons. She has a health condition, pancreatitis. The claimant has started school as a full-time student at Kirkwood Community College. She receives Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) each month. In order to receive these payments she must limit her earnings to \$1,090.00 per month.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is not able and available for work.

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.

When an employee is ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant states she is unable to perform full-time work due to her health condition. She is considered to be unavailable for work as of July 2, 2017.

Iowa Admin. Code r. 871-24.23(5) provides:

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

(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

When an employee is a full-time student she is considered to be unavailable for work. The claimant is a full-time student. She is considered to be unavailable for work as of July 2, 2017.

Iowa Admin. Code r. 871-24.23(22) provides:

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

(22) Where a claimant does not want to earn enough wages during the year to adversely affect receipt of federal old-age benefits (social security).

When an employee limits her wages to be eligible for a form of social security benefits, she is considered to be unavailable for work. In this case, the claimant limited her hours so she would be eligible for her full SSI and SSDI benefits. She is considered to be unavailable for work as of July 2, 2017. The claimant is disqualified from receiving unemployment insurance benefits as of July 2, 2017, because she is not able and available for work.

DECISION:

The representative's August 11, 2017, decision (reference 09) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits as of July 2, 2017, because she is not able and available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs