

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AMANDA M HARRINGTON
Claimant

AEROTEK INC
Employer

APPEAL 21A-UI-07500-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/03/21
Claimant: Appellant (4R)**

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Amanda Harrington (claimant) appealed a representative's decision dated March 5, 2021, reference 01, concluded ineligibility to receive unemployment insurance benefits based on availability to work with Aerotek (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 24, 2021. 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. The administrative law judge took official notice of the administrative record.

ISSUE:

The issue is whether the claimant was 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 July 1, 2020, to October 16, 2020. The claimant's childcare provider stopped working due to Covid-19. The claimant's husband had a stroke after taking care of the children for two days. The claimant quit work on October 16, 2020, to take care of her children. Her mother was able to care for the children as of November 1, 2020.

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A,

subsection 37, 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. 871-24.23(8) provides:

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

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

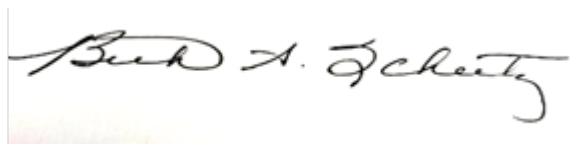
The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When an employee is spending working hours caring for children, she is considered to be unavailable for work. The claimant was devoting her time and efforts to caring for her children for two weeks. She is considered to be unavailable for work for the two weeks ending October 31, 2020.

The issue of the claimant's separation from employment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

DECISION:

The representative's March 5, 2021 decision (reference 01) is modified in favor of the claimant. The claimant was not able and available for work for work for the two weeks ending October 31, 2020.

The issue of the claimant's separation from employment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.



Beth A. Scheetz
Administrative Law Judge

June 3, 2021
Decision Dated and Mailed

bas/scn