

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LONNA M GRIMM**  
Claimant

**APPEAL 18A-UI-05215-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/18/18  
Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from the April 26, 2018, (reference 05) decision that denied benefits, finding the claimant was not able to and available for work due to the number of hours she is currently working. After due notice was issued, a hearing was held by telephone conference call on May 24, 2018. Claimant participated. Claimant's Exhibit A was admitted into the record.

**ISSUE:**

Is the claimant able to and available for work effective April 22, 2018?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: After the claimant was separated from her full-time job, she found work with her current employer. While earning wages with her former employer, the claimant regularly worked over forty hours per week. Her current employer can offer her at most 33.5 hours per week. Effective May 24, the claimant is going to begin working significantly less hours per week as she will only have work for three hours each day. Since the claimant clearly worked well over forty hours during the time she was earning her wages in her base period, she considered working 33.5 hours per week to be part-time employment.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective April 22, 2018.

Iowa Code § 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. 871-24.23(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant continues to look for work that will offer her more hours per week. Her base period wages reflect that she worked over forty hours each week she earned wages. Under these circumstances, claimant is at most working 33.5 hours per week. Her hours are now being reduced to at most, fifteen hours per week. The administrative law judge concludes under these circumstances, the claimant is not working so many hours that she can be considered removed from the labor market. Benefits are allowed effective April 22, 2018, provided the claimant is otherwise eligible.

**DECISION:**

The April 26, 2018, (reference 05) decision is reversed. The claimant is able to work and available for work effective April 22, 2018. Benefits are allowed, provided claimant is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/scn