

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BARBARA M EMERSON
Claimant

APPEAL NO. 07A-UI-07284-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 07/01/07 R: 02
Claimant: Appellant (1)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, Barbara Emerson, filed an appeal from a decision dated July 25, 2007, reference 03. The decision found the claimant not eligible to receive unemployment benefits for the period from July 22 through July 28, 2007. After due notice was issued, a hearing was held by telephone conference call on August 14, 2007. The claimant participated on her own behalf.

ISSUE:

The issue is whether the claimant was able and available for work during the week ending July 28, 2007.

FINDINGS OF FACT:

Barbara Emerson filed a claim for unemployment benefits with an effective date of July 1, 2007. For the time period from July 17 through 29, 2007, she was out of the state of Iowa on a personal vacation.

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".

871 IAC 24.23(25) provides:

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

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

Under the provisions of the above Administrative Code section the claimant is not eligible for benefits for the week ending July 28, 2007, because she was out of state on personal business.

DECISION:

The representative's decision of July 25, 2007, reference 03, is affirmed. Barbara Emerson is not eligible for benefits for the week ending July 28, 2007. as she was not able and available for work.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css