

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROLYN M ESTRADA-AYALA
Claimant

APPEAL NO: 11A-UI-00941-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAMBRIDGE TEMPOSITIONS INC
Employer

OC: 11/21/10
Claimant: Appellant (4)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed a department decision dated January 18, 2011, reference 01, that held she is not eligible for benefits effective November 21, 2010, because she is still employed at the same hours and wages. A telephone hearing was held on February 23, 2011. The claimant participated. The employer did not participate.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant worked for the employer on assignment for the City of Cedar Rapids from about August 1, 2010 to December 17. The claimant worked a full-time position in the housing department and starting November 26, a full-time position in community development. The claimant filed a claim effective November 21, because she was uncertain about her employment situation. The claimant reported her earnings that were excessive for the weeks ending November 27 through December 18, and she received no benefit.

The employer did not have any work to offer claimant for the weeks ending December 25, 2010 and January 1, 2011. The claimant searched for full-time work while claiming for unemployment benefits. The claimant secured a full-time job with Pearson and she reported \$640.00 earnings for the weeks ending January 8, and January 15, 2011, so she received no benefit.

The employer failed to respond to the hearing notice.

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".

The administrative law judge concludes that the claimant is eligible for benefits for the two weeks ending January 1, 2010, as she was able and available for work.

The claimant is not eligible for benefits from the effective date of her claim through the week ending December 18, 2010 due to full-time work and excessive earnings that she did report.

After completing her assignment on December 17, the employer had no further work to offer claimant though she was able and available. The claimant was unemployed and searching for full-time work during the two weeks ending January 1, 2011 that makes her eligible for benefits.

The claimant is not eligible for benefits beginning January 2, 2011, because she began working a full-time job and her earnings are excessive.

DECISION:

The department decision dated January 18, 2011, reference 01, is modified. The claimant is eligible for benefits the two weeks ending January 1, 2011, as she was unemployed, able and available and searching for work. Benefits are denied effective January 2, 2011 due to claimant working a full-time job and receiving excessive earnings.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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