

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROLYN A CHILDERS
Claimant

APPEAL NO. 08A-UI-07229-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES - MARSHALLTOWN
Employer

**OC: 07/20/08 R: 03
Claimant: Respondent (1)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated August 6, 2008, reference 01, which held claimant able and available for work and exempt from work searches. After due notice, a telephone conference hearing was scheduled for and held on August 25, 2008. Claimant participated personally. Employer participated by Nancy Mullaney, Manager.

ISSUE:

The issue in this matter is whether 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: Claimant works two jobs part time. The job with employer runs about 13 to 20 hours a week. At the high end of the range claimant is employed full time. Employer is not able to guarantee regular hours.

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".

Benefits shall be allowed effective July 20, 2008. Since claimant's employment is full time intermittently she is qualified for benefits and exempt from work searches. See: 871 IAC 24.2(1)C(3) which allows benefits where the hours are not predictable.

DECISION:

The decision of the representative dated August 6 2008, reference 01, is affirmed. Claimant is eligible to receive unemployment insurance benefits, effective July 20, 2008, provided claimant meets all other eligibility requirements.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs