

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ASHLEY N MILLER
Claimant

APPEAL NO. 10A-UI-08722-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEBSTER CITY CUSTOM MEATS INC
Employer

OC: 05/29/09
Claimant: Appellant (1)

Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 10, 2010, reference 03, that concluded the claimant was ineligible for benefits effective May 9, 2010, because she was unavailable for the hours available. A telephone hearing was held on August 3, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Connie Ingraham participated in the hearing on behalf of the employer with a witness, David Bergeson.

ISSUE:

Was the claimant able to and available for work?

FINDINGS OF FACT:

The claimant worked full time for the employer on the bacon packaging line starting November 2, 2009.

During the week ending May 15, 2010, the bacon packaging line was not running on May 11. The employer, however, announced to employees, including the claimant, that extra hours were available for employees who wanted to work. Employees were told to contact their supervisor first, and if the supervisor did not have additional work, to contact the production manager, who would make sure the employees had full-time hours for the week. The claimant never contacted her supervisor or the production manager about extra hours. If she had, she would have maintained her full-time hours for the week.

The claimant filed an additional claim for unemployment insurance benefits with an effective date of May 9, 2010. Her weekly benefit amount was determined to be \$361.00. She worked 30 hours during the week ending May 15 and earned \$330.00 in wages that week. She worked 39 hours during the week ending May 22 and earned \$429.00 in wages. Afterward, the claimant stopped filing for benefits because she was working full time.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work and available for work as required by the unemployment insurance law in Iowa Code § 96.4-3.

The rules provide that a claimant is considered unavailable for work if she is not willing to work during the hours when suitable work for the claimant is available. 871 IAC 24.23(16). In this case, the employer had full-time hours available for each of the weeks in question, but the claimant did not pursue working those hours or was not available for work due to personal reasons.

Iowa Code § 96.19-38-b provides in part:

b. An individual shall be deemed partially unemployed in any week in which, while employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

The claimant is ineligible for benefits for the weeks ending May 15, 2010, because she could have worked full time during the week by requesting work on May 11. She earned wages over the earnings limit for the week May 22 and was not eligible for partial unemployment insurance benefits for that week.

DECISION:

The unemployment insurance decision dated June 10, 2010, reference 03, is affirmed. The claimant is ineligible for benefits for the weeks ending May 15 and 22, 2010.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css