

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SISOUVANH CHOUNLAMANY
Claimant

APPEAL NO: 12A-UI-02702-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES
Employer

OC: 03/06/11
Claimant: Respondent (1-R)

Section 96.4-3 – Able and Available
871 IAC 26.8(5) – Decision on Record

STATEMENT OF THE CASE:

The employer appealed a department decision dated March 16, 2012, reference 05, that held the claimant was able and available for work effective February 19, 2012, and benefits are allowed. A telephone hearing was scheduled for April 3, 2012. The claimant and the employer did not participate.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record, finds: The claimant began work for the temporary employer firm on a full-time assignment at NyproKanaak (er#217749) beginning April 4, 2011. Claimant left her temporary employment firm to begin work for Nypro on September 10, 2011. The department record shows Nypro reported claimant earnings of \$650.00 for the third quarter of 2011, and \$7,681 00 for the fourth quarter.

The claimant and employer did not participate.

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 was able and available for work and no benefit disqualification is imposed based on the department record.

Iowa Code section 96.5-1-a provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge further concludes the issue whether claimant voluntarily left for other employment with NyproKanaak (er#217749) on September 10, 2011 is remanded to Claims for a department fact-finding. Since the parties did not participate in this matter, no waiver of notice on this employment separation issue could be obtained.

DECISION:

The department decision dated March 16, 2012 reference 05 is affirmed. The claimant is able/available for work and eligible for benefits effective February 19, 2012. The September 10, 2011 employment separation issue is remanded to Claims.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css