

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MYRNA C SMITH
Claimant

APPEAL 17A-UI-10322-DL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 08/20/17
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 3, 2015, (reference 02) unemployment insurance decision that denied benefits based upon not being able to and available for work for the week ending October 7, 2017. After due notice was issued, a telephone conference hearing was scheduled to be held on October 25, 2015. Claimant's appeal letter was sufficient to resolve the issue and no hearing was held.

ISSUE:

Was the claimant able to work and available for work the week ending October 7, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was out-of-town from late afternoon on Wednesday, October 4 through Sunday, October 8, 2017, at a campground 90 minutes from home and had her cell phone with her in case she was called for an interview. She would have been able to return to her home area for an interview. She had made the reservations before her separation from employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able to work and available for work, and made an earnest search for work for the period in question.

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".

An individual claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. Claimant was available for work the majority of the work week and was available at any time to be contacted for an interview. Accordingly, she is eligible for unemployment insurance benefits.

DECISION:

The October 3, 2017, (reference 02) unemployment insurance decision is reversed. The claimant was able to work and available for work the week-ending October 7, 2017. Benefits are allowed, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs