

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

BAILEY L FORD
Claimant

APPEAL NO. 15A-UI-08882-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EMPLOYMENT CONNECTIONS INC
Employer

OC: 07/12/15
Claimant: Appellant (3)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the representative's decision dated July 31, 2015, reference 02, which denied unemployment insurance benefits finding that on July 13, 2015 the claimant refused to accept an offer of suitable work with Employment Connections. After due notice was provided, a telephone hearing was held on August 27, 2015. The claimant participated. The employer participated by Ms. Deb Lenz.

ISSUE:

At issue in this matter is whether the claimant is able and available for work within the meaning of the Iowa Employment Security Law.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered the evidence in the record, finds: Bailey Ford completed her most recent assignment with Employment Connections on July 9, 2015. Ms. Ford had been assigned to work at the Pure Fishing Company and was paid \$10.80 per hour. The assignment was full time during the duration of the work assignment. On July 13, 2015, Employment Connections offered Ms. Ford full-time work at the rate of \$9.25 per hour. Although the offer of work was made to the claimant during the first five weeks since she filed her most recent new or additional claim and the gross weekly wage equaled Ms. Ford's average wage during the highest quarter of her base period, Ms. Ford had declined the offer as she planned on attending school in the near future. Attending school two hours per day between 8:30 a.m. and 10:30 a.m., Monday through Thursday. It is the claimant's intention not to work for any employers during the school term. The claimant's school term runs from August 24, 2015 until December 18, 2015.

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

In the case at hand the evidence in the record establishes Ms. Bailey finished a job assignment with Employment Connections on July 9, 2015 and on July 13, 2015 was offered another full-time job assignment with pay co-measurement to that the claimant received during her highest quarter of her base period. The offer was not refused because it was unsuitable. The claimant was unable to accept the offer because she was not able and available for work within the meaning of the Iowa Employment Security Law. Although the claimant was claiming unemployment insurance benefits, she did not intend to return to employment or be reemployed as she was soon to begin her educational pursuit to obtain her GED and was unwilling to work while in school. Ms. Ford testified that it was her school term would be approximately August 24, 2015 to December 18, 2015 and she would attend classes two hours per day between 8:30 a.m. and 10:30 a.m., Monday through Thursday, and that she planned to focus on completing her education. Ms. Ford testified that it is not her intent to be employed while she is in school.

Before the administrative law judge may determine whether there has been a refusal of suitable work, the administrative law judge must first determine whether Ms. Ford has been able and available for work since the July 9, 2015 layoff. She is not.

An otherwise eligible claimant is eligible to receive benefits with respect to any week only if the evidence indicates that the individual is able to work, is available for work, and is earnestly and actively seeking work. Iowa Code section 96.4(3) and 871 IAC 24.22. The claimant bears the burden of establishing that the claimant meets the above requirements. 871 IAC 24.22.

To satisfy the ableness requirement, an individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but what is engaged in by others as a means of livelihood. 871 IAC 24.22(1).

To satisfy the availability requirement, an individual must be willing, able, and ready to accept suitable work which the individual does not have good cause to refuse. The individual must be generally attached to the labor market, actively seeking employment and willing to accept employment with no limitations that unreasonably bar the claimant from promptly being reemployed. .

Based upon the evidence in the record and the application of the appropriate law, the administrative law judge concludes that the claimant is not able and available for work since becoming unemployed on July 9, 2015. The claimant, therefore, is not eligible for

unemployment insurance benefits for that period. Since Ms. Ford did not meet the benefit availability requirements of Iowa Code section 96.4(3), the administrative law judge further concludes that there has been a refusal of suitable employment. See 871 IAC 24.24(4).

DECISION:

The representative's decision dated July 31, 2015, reference 02, that disqualifies the claimant from the receipt of unemployment insurance benefits is affirmed as modified. The portion of the determination disqualifying the claimant from receiving benefits is affirmed. The portion of the determination finding that the claimant refused an offer of suitable work on July 13, 2015 is modified to find that the claimant is not able and available for work effective that date. The claimant is disqualified for unemployment insurance benefits until she meets all eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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