

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIELLE R MOREHEAD
Claimant

APPEAL NO. 09A-UI-03649-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**J & M PARTNERSHIP
MCDONALDS**
Employer

**Original Claim: 02/01/09
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 March 3, 2009, reference 01, which held claimant able and available for work. After due notice, a telephone conference hearing was scheduled for and held on April 1, 2009. Claimant participated personally. Employer participated by Terri Torres, Area Supervisor.

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 having considered all of the evidence in the record, finds: Claimant worked as a Swing Manager receiving about 27 hours a week. Employer unilaterally reduced claimant's hours to eight hours per week effective February 1, 2009 for disciplinary reasons. Claimant was available to work her full 27 hours but for the employer's disciplinary reduction.

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".

Claimant was able and available to work her full 27 hour week but for employer's actions. This is a unilateral reduction in hours caused by employer and not by claimant. Benefits shall be allowed effective February 1, 2009.

DECISION:

The decision of the representative dated March 3 2009, reference 01, is affirmed. Claimant is eligible to receive unemployment insurance benefits, effective February 1, 2009, provided claimant meets all other eligibility requirements.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw