

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

YAWA B QUINDAH
Claimant

REMEDY INTELLIGENT STAFFING INC
Employer

APPEAL 24A-UI-01220-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/17/23
Claimant: Respondent (2)**

Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

Remedy Intelligent Staffing Inc, the employer/appellant,¹ appealed the Iowa Workforce Development (IWD) January 23, 2024, (reference 01) unemployment insurance (UI) decision. IWD found Ms. Quindah eligible for REGULAR (state) UI benefits as of December 17, 2023 because IWD concluded that she was unemployed as of this date due to short-term layoff and she is able to and available for work. On February 7, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to the employer and Ms. Quindah for a telephone hearing scheduled for February 21, 2024.

The administrative law judge held a telephone hearing on February 21, 2024. The employer participated through Dawn Starr, branch manager. Ms. Quindah did not participate in the hearing. The administrative law judge took official notice of the administrative record and admitted Employer's Exhibit 1 as evidence.

ISSUES:

Is Ms. Quindah able to and available for work as of December 17, 2023?
Is Ms. Quindah partially or temporarily unemployed as of December 17, 2023?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Quindah began working for the employer, a base period employer, on September 1, 2022. She works as a full-time first shift system lead assigned to work at General Mills.

General Mills shut down on December 17, 2023 and reopened on January 3, 2024. General Mills notified the employer that it would be shutting down. The employer told Ms. Quindah and other employees to contact the employer for other work during the General Mills shutdown.

Ms. Quindah did not contact the employer for new work. On December 21 and again on December 27, Ms. Starr contacted Ms. Quindah and offered her work that was about 20 minutes

¹ Appellant is the person or employer who filed the appeal.

away. Ms. Quindah declined both offers because she preferred not to drive 20 minutes to and from work. Ms. Quindah returned to work at General Mills in early January 2024.

Ms. Quindah initially applied for UI benefits effective December 17, 2023. Ms. Quindah has base period wages from this employer only. Ms. Quindah filed weekly UI claims for the two weeks: December 17-23 and December 24-30.

Ms. Quindah then filed an additional UI claim effective January 21, 2024. IWD issued a decision on February 15, 2023 (reference 02) that denied Ms. Quindah UI benefits as of January 21, 2024 because IWD concluded that she was still employed in her job with the employer in the same way she had been before she filed her additional UI claim.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Quindah is not able to and available for work as of December 17, 2023, so she is not eligible for UI benefits.

Iowa Code § 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 96.1A, subsection 37, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

Iowa Admin. Code r. 871-24.23(18) provide:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

A person claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work.² To be able to work, "[a]n individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood."³ "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides."⁴

² Iowa Admin. Code r. 871-24.22.

³ *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1).

⁴ *Sierra* at 723.

In this case, Ms. Quindah declined the employer's offer of work during the time General Mills shut down because she didn't want to drive 20 minutes. Ms. Quindah unduly limited her availability for work from December 17, 2023 through December 30, 2023. Ms. Quindah is not available for work these two weeks, and she is not eligible for UI benefits for these two weeks.

DECISION:

The January 23, 2024 (reference 01) UI decision is REVERSED. Ms. Quindah is not able to and available for work from December 17, 2023 through December 30, 2023. Ms. Quindah is not eligible for UI benefits from December 17, 2023 through December 30, 2023.



Daniel Zeno
Administrative Law Judge

February 29, 2024
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with this decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.