

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

DORIS M HADA
Claimant

APPEAL NO: 19A-UI-02731-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PILOT TRAVEL CENTERS LLC
Employer

OC: 02/24/19
Claimant: Respondent (4R)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The employer filed an appeal from the March 22, 2019, (reference 04) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 23, 2019. The hearing was held jointly with Appeal 19A-UI-02463-JC-T. The claimant participated personally. The employer participated through Tyler Bennett, general manager.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Employer Exhibit 1 was admitted into evidence. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant able to work and available for work effective February 24, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a maintenance person and was separated from employment on February 25, 2019, when she was discharged (See 19A-UI-02463-JC-T).

The claimant made her required work searches and was able to and available for work until she accepted new full-time employment through Aventure Staffing on March 25, 2019. She is currently working on assignment in Montezuma, Iowa. The claimant made weekly continued claims for the weeks ending March 30, 2019 and April 6, 2019 but did not report wages earned for each week. Wages are to be reported when earned, not paid.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was able to and available for work February 24, 2019 through March 23, 2019.

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".

For an individual to be eligible to receive benefits, she must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The claimant has the burden to show she is able to work, available for work, and earnestly and actively seeking work. In this case, the evidence establishes the claimant is able to and available for work as defined by the unemployment insurance law for the period of February 24, 2019 through March 23, 2019, as she made the appropriate job searches and did not refuse any offer of work. Benefits are therefore allowed during this period, provided she is otherwise eligible.

Beginning March 24, 2019, the claimant is ineligible for unemployment insurance benefits due to full-time employment.

Iowa Admin. Code r. 871-24.23(23) provides: Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work. (23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

Effective March 24, 2019, the claimant is no longer able and available due to her new, full-time employment. Benefits are denied beginning March 24, 2019.

REMAND: The issue of the claimant's unreported wages during her first two weeks of new employment (for the period of March 24-April 6, 2019) is remanded to the Benefits Bureau for an initial investigation and determination. The issue of overpayment may need to be addressed as well.

DECISION:

The March 22, 2019, (reference 04) decision is modified in favor of the employer/appellant. The claimant is able to and available February 24- March 23, 2019. Benefits are allowed, provided she is otherwise eligible. The claimant is ineligible for benefits beginning March 24, 2019 due to full-time employment.

REMAND: The issue of the claimant's unreported wages during her first two weeks of new employment (for the period of March 24-April 6, 2019) is remanded to the Benefits Bureau for an initial investigation and determination. The issue of overpayment may need to be addressed as well.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn