

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

MARIA L LARA
Claimant

APPEAL NO: 18A-UI-07458-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC
Employer

OC: 05/27/18
Claimant: Respondent (1R)

Section 96.4-3 – Able and Available for Work
Section 96.4-3 – Same Hours and Wages

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 2, 2018, reference 04, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 31, 2018. The claimant participated in the hearing with CTS Language Link Interpreter Natalie (11859). Elizabeth Barnes, Recruiter, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a part-time as needed general laborer for Manpower International last assigned at ConAgra Foods from May 31, 2017 to April 29, 2018. The client requested the claimant's assignment be ended because of behavioral issues and the employer notified the claimant her assignment was over April 29, 2018. She has not worked for Manpower or contacted Manpower since April 29, 2018.

There are issues regarding the claimant's separation from this employer that have not yet been heard or adjudicated by the Claims Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not still employed at the same hours and wages as contemplated in the original contract of hire and is able and available for work.

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".

The claimant was hired as a part-time on-call employee. There has been a separation from this employer. The claimant is not working for this employer at the same hours and wages as contemplated in the original contract of hire. The claimant is able and available for work. Therefore, benefits are allowed provided the claimant is otherwise eligible.

The issues regarding the claimant's separation from this employer are remanded to the Claims Bureau for an initial investigation and determination.

DECISION:

The July 2, 2018, reference 04, decision is affirmed. The claimant is not still employed at the same hours and wages as in her original contract of hire. She is able and available for work. The claimant is eligible for benefits based on her employment with Manpower. The issues regarding the claimant's separation from this employer are remanded to the Claims Bureau for an initial investigation and determination.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/rvs