

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LECOYIA C WILLIS

Claimant

APPEAL NO. 14A-UI-00609-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DAVIDSON HOTEL COMPANY LLC

Employer

OC: 12/08/13

Claimant: Appellant (1)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Lecoyia Willis filed a timely appeal from the January 14, 2014, reference 04, decision that denied benefits effective December 8, 2013 based on an agency conclusion that she was not available for work within the meaning of the law. After due notice was issued, a hearing was held on February 10, 2014. Ms. Willis participated in the hearing. Melanie Baker, General Manager, represented the employer. Exhibit A was received into evidence. The administrative law judge took official notice of the wages reported by or for the claimant, of the benefits disbursed to the claimant and of the claimant's use of the agency's website and voice response unit to make her weekly claims for benefits.

ISSUES:

Whether the claimant has been able to work and available for work since establishing the claim for benefits that was effective December 8, 2013.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: In June 2013, Lecoyia Willis began her employment with the Davidson Hotel Company, d/b/a The Sheraton Hotel in Iowa City. Ms. Willis was a part-time front desk clerk job at the Sheraton Hotel until November 15, 2013, when she elected to change to on-call status with that employer because she had accepted other employment. Ms. Willis last performed work for the Sheraton Hotel on December 11, 2013. Since then, the Sheraton has not had work for Ms. Willis. On November 26, 2013, Ms. Willis commenced employment with Vangent in Coralville. Vangent ended the employment on December 14, 2013.

Ms. Willis established a claim for benefits that was effective December 8, 2013. Since then, Ms. Lecoyia has continued her claim for benefits by making a weekly report to Workforce Development via the agency's website. For each week from December 8, 2013 through February 1, 2014, Ms. Willis reported zero wages and nine employer contacts. Ms. Willis has not made nine employer contacts per week. For the week ending December 14, 2013, Ms. Willis made seven employer contacts. For the week ending December 21, 2013, Ms. Willis made five employer contacts. Ms. Willis cannot name any specific employer contact for the

week ending December 28, 2013. During the week that ended January 4, 2014, Ms. Willis made contact with the Riverside Casino. Ms. Willis is unable to state any other specific job contacts she made that week. Ms. Willis cannot recall any job contacts she made for the period of January 5, 2014 through February 8, 2014.

On January 8, 2014, Ms. Willis participated in a fact-finding interview with a Workforce Development Claims Deputy. At the time of the fact-finding interview, Ms. Willis told the Claims Deputy that was still on call with Davidson Hotel/Sheraton, but that she did not have any transportation to get there. Ms. Davidson lives in North Liberty. On January 15, 2014, Ms. Willis bought a used car.

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".

871 IAC 24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

871 IAC 24.23(4) provides:

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

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. (See subrule 24.24(7)).

Ms. Willis has presented insufficient evidence to establish that she had transportation from the time she filed her claim for benefits until Tuesday, January 15, 2014, when she purchased a used car she could use for her work search and to get back and forth to work. Ms. Willis' assertion that she had ongoing use of a rental car to get from the small town of North Liberty to the Iowa City/Coralville labor market at the time when she was without employment or wages is not credible. Ms. Willis' assertion that she did not tell the Workforce Development Claims Deputy on January 8, 2014 that she lacked a vehicle is not credible. There would be no reason for the Claims Deputy to note such comments unless they were made by Ms. Willis at the time of the fact-finding interview. It is noteworthy that a week after the fact-finding interview and one day after the decision denying benefits was mailed to Ms. Willis, Ms. Willis purchased a vehicle. Ms. Willis is ineligible for benefits for the period of December 8, 2013 through the benefit week that ended January 11, 2014 due to the lack of transportation. For this reason, benefits are denied for the period of December 8, 2013 through January 11, 2014. The weight of the evidence indicates that transportation was no longer an issue from January 15, 2014.

Ms. Willis has presented insufficient evidence to establish an active and earnest search for new employment through job contacts with specific employers from the week that started December 22, 2013 to the present. Ms. Willis' assertion, via the online claims reporting system, that she made nine job contacts each week of her claim is not credible. Ms. Willis could name only one employer contact for the period of December 22, 2013 through the week that ended February 8, 2014. For this reason, benefits are denied effective December 22, 2013. The ineligibility continued as of the February 10, 2014 appeal hearing. Ms. Willis will continue to be ineligible for benefits until she demonstrates an active and earnest search for new employment. Ms. Willis must meet all other eligibility requirements.

DECISION:

The Agency representative's January 14, 2014, reference 04, decision is affirmed. The claimant has not met the availability and/or work search requirements since she established her claim for benefits. Benefits are denied effective December 8, 2013. The ineligibility continued as of the February 10, 2014 appeal hearing. The claimant will continue to be ineligible for benefits until she demonstrates an active and earnest search for new employment. The claimant must meet all other eligibility requirements.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs