

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBBIE J ALFREY
Claimant

APPEAL NO. 13A-UI-00974-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALTOONA LAWN CARE
Employer

OC: 12/09/12
Claimant: Appellant (2-R)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, January, filed an appeal from a decision dated January 17, 2013, reference 02. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on February 26, 2013. The claimant participated on her own behalf. The employer, Altoona Lawn Care, did not provide a telephone number where a witness could be contacted and did not participate.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Debbie Alfrey began employment with Altoona Lawn care in March 2012 as a full-time office manager. She was laid off for lack of work on November 4, 2012, because work was slowing down for the winter.

On December 20, 2012, Owner Mark Stevenson called and asked her to come to work because many of the workers were doing snow removal and he needed her help to bill customers. Later that day he called her and said she did not need to come in that day because the weather was so bad but she agreed to come in the next day.

On December 21, 2012, she did come in and was prepared to work but the employer became irate when she told him she would be out of town from that afternoon until December 24, 2012, for the holiday.

Ms. Alfrey did not hear from the owner after that time to come in and work when snow removal work was being done. She believes the employment ended around January 26, 2013, when she discovered the employer had protested her unemployment benefits. She did not notify Iowa Workforce Development her status had changed from a temporary lay off to a separation.

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".

The claimant was ready, willing and able to work the majority of each week after filing her claim for benefits but was not called to work after December 21, 2012.

The issue of the separation from employment has not been adjudicated.

DECISION:

The representative's decision of January 17, 2013, reference 02, is reversed. Debbie Alfrey is able and available for work and eligible for unemployment benefits.

The issue of whether the claimant is disqualified for unemployment benefits as a result of her separation from employment is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs