

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LORETTA L LOTT
Claimant

APPEAL 18A-UI-06773-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEVENTH AVENUE INC
Employer

**OC: 05/13/18
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the June 18, 2018 (reference 01) unemployment insurance decision that found claimant was not eligible for unemployment benefits because she worked enough hours to be considered employed from May 13, 2018 through May 19, 2018. The parties were properly notified of the hearing. A telephone hearing was held on July 10, 2018. The claimant participated personally. The employer participated through witness Teah Shirk. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUE:

Was the claimant able to work and available for work from May 13, 2018 through May 19, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant's current benefit year has an effective date of May 13, 2018 and expires on May 12, 2019. Claimant was employed for thirty-five hours during the week of May 13, 2018 through May 19, 2018.

Claimant had been laid off due to lack of work from May 6, 2018 through May 12, 2018 and had filed her weekly continued claim for benefits during her previous claim year that was effective May 14, 2017 through May 13, 2018. She was paid her full weekly benefit amount for the week she was laid off from May 6, 2018 through May 12, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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 96.19, subsection 38, paragraph "b", subparagraph (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".

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.

For the week of May 13, 2018 through May 19, 2018, claimant was employed full-time and is therefore not eligible for benefits because she was working to such a degree that removed her from the labor market. As such, benefits are denied for the week of May 13, 2018 through May 19, 2018.

DECISION:

The June 18, 2018 (reference 01) decision is affirmed. Claimant is not eligible for benefits from May 13, 2018 through May 19, 2018 because she was working to such a degree that removed her from the labor market. Benefits are denied from May 13, 2018 through May 19, 2018.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs