

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELIZABETH M TODD
Claimant

APPEAL NO. 08A-UI-01963-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ACC ENTERPRISES
CEDAR HEALTH**
Employer

**OC: 05/13/07 R: 03
Claimant: Respondent (1/R)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Cedar Health (employer) appealed a representative's February 22, 2008 decision (reference 07) that concluded Elizabeth Todd (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 12, 2008. The claimant was represented by Todd Prichard, Attorney at Law, and participated personally. The employer participated by Dennis Sanvig, President.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant separated from work with this employer in August 2007. She was able and available for work on February 3, 2008.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.23(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant is qualified to receive unemployment insurance benefits because she is able and available for work.

The issue of the claimant's separation from employment is remanded for determination.

DECISION:

The representative's February 22, 2008 decision (reference 07) is affirmed. The claimant is not disqualified from receiving unemployment insurance benefits because she is able and available for work. The issue of the claimant's separation from employment is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css