

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
SHANNON E DAVENPORT Claimant	APPEAL NO: 12A-UI-07948-ST
TEAM STAFFING SOLUTIONS INC Employer	ADMINISTRATIVE LAW JUDGE DECISION
	OC: 06/03/12 Claimant: Respondent (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The employer appealed a department decision dated June 28, 2012, reference 02, that held the claimant was eligible for benefits June 3, 2012, as she was able and available for work. A telephone hearing was held on July 24, 2012. The claimant did not participate. Sarah Fiedler, Claims Administrator, participated for the employer.

ISSUES:

Whether the claimant is able and available for work.

Whether the employer may be relieved of benefit charges.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant worked for the employer on a temporary long-term assignment at AllSteel from September 12, 2011 to January 27, 2012. She was a full-time production worker.

Claimant called the employer requesting to end the assignment at AllSteel and transfer to Hon Company. She knew she was going to miss work and the attendance policy at AllSteel would dictate her dismissal. The employer could not grant the transfer request. The claimant did call in on February 2, and periodically, thereafter, checking for work, but none was available.

Although claimant filed for unemployment, she has not made any claim or received benefits as of the date of this hearing. The employer did not protest on the notice of claim that claimant was a voluntary quit. Claimant failed to respond to the hearing notice.

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 administrative law judge concludes that no availability disqualification is imposed, and benefits are allowed effective June 3, 2012. Since the employer did not protest an employment separation issue as a voluntary quit it cannot be considered in this matter, and it would not be considered as timely to do so at any future date.

There is no evidence to disqualify claimant on any availability issue. She contacted the employer about her absence from work at AllSteel and requested another work assignment. She followed-up with a further work contact the next week, and thereafter. The employer had no other work assignment to offer to her. An absence from work for one-day is not sufficient to impose an availability disqualification.

DECISION:

The department decision dated June 28, 2012, reference 02, is affirmed. The claimant is eligible for benefits effective June 3, 2012, because she does meet the availability requirements of the law.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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