

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRISTI ALLEN
Claimant

APPEAL NO: 12A-UI-10077-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KIRKWOOD COMMUNITY COLLEGE
Employer

OC: 07/15/12
Claimant: Appellant (1)

Iowa Code § 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

Kristi Allen (claimant) appealed an unemployment insurance decision dated August 10, 2012, reference 01, which held that she was not eligible for unemployment insurance benefits because she is working enough hours with Kirkwood Community College (employer) so as to remove her from the labor market. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 13, 2012. The claimant participated in the hearing. The employer participated through Sheri Hlavacek, Human Resources Specialist. Claimant's Exhibit A was admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant meets the availability requirements of the law.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired as a part-time truck driving facilitator on April 1, 2010 with no guarantee of hours. She has worked more than 35 hours per week until July 1, 2012 when her hours were reduced to 28 hours per week. The claimant continues to work for the employer and works 11 hours on Mondays and 7.5 hours on Tuesdays, Wednesdays and Thursdays.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant is able and available for work. In order for an individual to be eligible to receive unemployment insurance benefits, the evidence in the record must establish that she is able to work, available for work, and earnestly and actively seeking work. See Iowa Code § 96.4(3) and 871 IAC 24.22.

871 IAC 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.

The claimant has the burden of proof in establishing her ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). The evidence confirms the claimant works four out of five days each week. She therefore does not meet the availability requirements of the law and benefits are denied as of July 15, 2012.

DECISION:

The unemployment insurance decision dated August 10, 2012, reference 01, is affirmed. The claimant does not meet the availability requirements of the law and benefits are denied as of July 15, 2012.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css