

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BETHANY D GATES
Claimant

APPEAL NO. 11A-UI-02603-PT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND HOME CARE INC
Employer

**OC: 01/09/11
Claimant: Respondent (1)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated February 22, 2011, reference 02, which held claimant was able and available for work. After due notice, a telephone conference hearing was scheduled for and held on March 24, 2011. Claimant participated personally. Employer participated by Sherri Strasko, RN case manager. Employer Exhibits 1 through 5 were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant was hired as a part-time LPN on May 21, 2010. She advised the employer that she would be going to school full-time in the fall of 2010, so she would be available for fewer hours. She worked until December 31, 2010. Since that date, the claimant requested to be scheduled for more hours but the employer was unable to find work for the claimant that is in her area and fits her school schedule.

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 hired to work part-time. She is still employed on that basis and she is still available for work to the extent agreed when she was hired. Benefits shall be allowed effective January 9, 2011.

DECISION:

The decision of the representative dated February 22, 2011, reference 02, is affirmed. Benefits shall be allowed effective January 9, 2011, provided claimant meets all other eligibility requirements.

Ron Pohlman
Administrative Law Judge

Decision Dated and Mailed

rrp/kjw