

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LISA D MATHEWS**  
Claimant

**APPEAL NO. 12A-UI-00467-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LARSON MANUFACTURING COMPANY  
OF SOUTH DAKOTA INC**  
Employer

**OC: 12/18/11  
Claimant: Appellant (4)**

Section 96.4-3 - Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated January 9, 2012, reference 01, that concluded the claimant was unavailable for work from December 18 through December 31. A telephone hearing was held on February 17, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Dan Hemmen participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant able to and available for work?

**FINDINGS OF FACT:**

The claimant began working for the employer in December 2007. She worked on the second shift. In late November, the employer circulated a form on which employees on the second shift were to decide what they wanted to do for the week December 18 and December 25. They were given a choice to (1) work, (2) take unpaid time off, or (3) take paid time off.

The claimant wrote down on the form that she wanted to work the week of December 18 and was requesting paid time off for December 27, 28, 29, and 30. December 24 and December 26 were holidays for which the claimant received holiday pay \$100.00.

There were not enough second-shift workers for the employer to run the second-shift. The supervisor notified the claimant that there was no second-shift work available for the weeks of December 18 and December 25. He told her that there was work available on the first-shift and workers were welcome to work that shift but if they did not work they could file for unemployment insurance benefits because of the lack of second-shift work. The claimant decided not to accept first-shift work because she had worked that shift the year before and it was difficult to adjust to the new hours.

The claimant filed a claim for unemployment insurance benefits effective December 13, 2011. Even though the claimant had listed that she did not want to work December 27, 28, 29, and 30

and would receive paid time off, she decided to file for benefits for both weeks and not request paid time off for the week of December 25.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. I conclude that the claimant was eligible for benefits for the week ending December 24 because she was willing and able to work that week but her shift was not available. I conclude she was not eligible for benefits for the week ending December 31 because she had represented to the employer that she did not wish to work that week, which made her unavailable. The supervisor informed the claimant that she could file for benefits but the supervisor cannot determine a claimant's eligibility for benefits.

**DECISION:**

The unemployment insurance decision dated January 9, 2012, reference 01, is modified. The claimant was eligible for benefits for the week ending December 24 but not for the week ending December 31, 2011.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css