

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEBRA L ORWELLER**  
Claimant

**APPEAL NO. 08A-UI-07912-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**STAFF SOURCE INC**  
Employer

**OC: 06/15/08 R: 02  
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available for Work  
Section 96.5-3-a – Refusal of Suitable Work

**STATEMENT OF THE CASE:**

Debra Orweller filed an appeal from a representative's decision dated September 3, 2008, reference 03, which disqualified her from benefits finding that the claimant refused to accept suitable work on July 24, 2008. After due notice, a telephone conference hearing was scheduled for and held on September 17, 2008 at which time the claimant participated personally. Although duly notified, the employer did not respond to the notice of hearing and did not participate.

**ISSUE:**

At issue in this matter is whether the claimant is able and available for work and whether the claimant refused an offer of suitable work.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant has been employed by Staff Source Inc. as a temporary worker accepting various assignments beginning in November 2007. The claimant generally works as a home healthcare worker, nursing home worker or hospice worker and is paid from \$10.00 to \$15.00 per hour depending upon the assignment.

The claimant did not accept an offer of a two-day assignment through Staff Source Inc. for July 27 and 28, 2008 as Ms. Orweller had a legal commitment to attend a court hearing in the state of Arkansas at that time. The claimant had previously informed Staff Source of her temporary inability to accept assignments for two days of that week. Ms. Orweller was available for assignments the majority of that workweek and actively and earnestly sought employment during that time.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes that the claimant is able and available for work during the period in question and that the claimant had previously informed Staff Source of her limited availability during two days of the week in question. Ms. Orweller was available the majority of the workweek that she claimed benefits and actively and earnestly sought work during that time.

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 has sufficiently demonstrated to the satisfaction of the administrative law judge an active and earnest search for work during the week ending July 26, 2008. Accordingly, benefits are allowed.

**DECISION:**

The September 3, 2008, reference 03, decision is reversed. The claimant is able and available for work and has actively and earnestly sought work for the week ending July 26, 2008. Benefits are allowed, providing the claimant is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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