

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHELLE Y WILLIAMS**  
Claimant

**APPEAL NO. 10A-UI-06901-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JS VENTURES**  
Employer

**Original Claim: 01/03/10  
Claimant: Appellant (4)**

Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The claimant, Michelle Williams, filed an appeal from a decision dated May 4, 2010, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on June 29, 2010. The claimant participated on her own behalf. The employer, JS Ventures, participated by Assistant Human Resources Director Martha Baker and was represented by TALX in the person of Michelle Hawkins.

**ISSUE:**

The issue is whether the claimant is able and available for work.

**FINDINGS OF FACT:**

Michelle Williams began employment with JS Ventures on January 5, 2008 as a part-time server. During the summer of 2009 she had a full-time seasonal job with a road construction company and attempted to maintain some hours with this employer at the same time. Due to the construction crew being in various locations, she was not always able to work the scheduled hours and this caused problems for the employer.

Ms. Williams intended to work the same summer road construction job in 2010 and in March 2010 notified Manager Todd Schmidt she was going to quit and would reapply for the job in the autumn. In addition, she would be finishing up some course work for graduate school. The employer encouraged her to request a leave of absence instead, running from March 29 until October 1, 2010. The paperwork was filled out and approved, specifying she was on a leave of absence due to graduate school.

The summer road construction job started sometime the first of April 2010, but was sporadic due to rain. Ms. Williams returned to JS Ventures effective May 22, 2010, on her normal 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".

871 IAC 24.23(10) provides:

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

The claimant opted to be on a leave of absence from JS Ventures in order to accept seasonal work from another employer. This is essentially a voluntary quit for a specific period of time to accept other employment. Ms. Williams did accept the other employment, but has subsequently been laid off for lack of work. Under the provisions of Iowa Code chapter 96.5(1)a, the claimant's separation this employment would be a disqualifying event, but she requalified by working for the new employer.

She remained able and available for work for the new employer, and, after May 22, 2010, for JS Ventures.

**DECISION:**

The representative's decision of May 4, 2010, reference 01, is modified in favor of the appellant. Michelle Williams is qualified and eligible for benefits. The account of JS Ventures shall not be charged with benefits paid to the claimant between March 29 and May 22, 2010.

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Bonny G. Hendricksmeyer  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw