

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JILL R CODDINGTON
Claimant

APPEAL NO. 14A-UI-00057-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTS & HUGS DAY CARE INC
Employer

OC: 12/08/13
Claimant: Respondent (1-R)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The employer, Hearts and Hugs Day Care, filed an appeal from a decision dated December 24, 2013, reference 02. The decision allowed benefits to the claimant, Jill Coddington. After due notice was issued, a hearing was held by telephone conference call on January 27, 2014. The claimant participated on her own behalf. The employer participated by Director Chris Heimke.

ISSUE:

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

FINDINGS OF FACT:

Jill Coddington was employed by Hearts & Hugs beginning June 24, 2013. She was hired as a full-time teacher at 36 hours per week. But her hours could vary depending on the number of children in attendance and she might be sent home if the census was low.

In late November 2013 she told Site Manager Marty Bozwell she had a restraining order against her child's father and she herself might be the subject of a child abuse complaint. She was suspended without pay the week of December 8, through 14, 2013, pending the results of the background check the employer was required to make. She was returned to work at the end of the week but the hours were reduced.

There has been a subsequent separation from employer January 20, 2014

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 suspended for one week pending the results of a background check. She was still able to work at that time. She continued to be able and available for work had the hours been scheduled for her through January 20, 2014.

The issue of the claimant's separation should be remanded for adjudication.

DECISION:

The unemployment insurance decision dated December 24, 2013, reference 02, is affirmed. Jill Coddington is able and available for work and eligible for unemployment benefits.

The issue of the claimant's separation from Hearts and Hugs is remanded for determination by the agency.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css