

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**LOUISE TOMMY**  
Claimant

**APPEAL 21A-UI-24230-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/17/21  
Claimant: Appellant (2)**

---

Iowa Code § 96.4(3) – Able to and Available for work

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the October 26, 2021 (reference 07) unemployment insurance decision that found claimant was not eligible for unemployment benefits because she was devoting the majority of her time to his studies and there was no reasonable expectation of him securing employment. The claimant was properly notified of the hearing. A telephone hearing was held on December 22, 2021. The claimant participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**ISSUE:**

Is the claimant able to and available for work effective October 17, 2021?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked from 2018 until January of 2021 at Smithfield until she was discharged from employment. Claimant next employment was with Optimae Life Services. In October 2021, claimant was engaged in the training for work at Optimae Life Services.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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", subparagraph (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".

Iowa Admin. Code r. 871-24.23(5) provides:

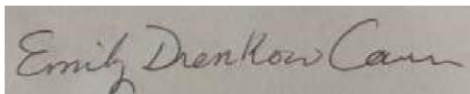
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

In this case, claimant never attended full-time school. The only classes she attended were those required for her job with Optimae. Claimant is not a full-time student devoting the major portion of her time and efforts to his studies, as such, she does not meet the availability requirements of the law. Benefits are allowed effective October 17, 2021.

**DECISION:**

The October 26, 2021 (reference 07) decision is reversed. Claimant is eligible for benefits because she does meet the availability requirements of the law.



---

Emily Drenkow Carr  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

January 25, 2022  
Decision Dated and Mailed

ed/mh