

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TANYA L WILLIAMS
Claimant

CBS STAFFING LLC
Employer

APPEAL 20A-UI-09984-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/26/20
Claimant: Appellant (2)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Tanya Williams (claimant) appealed a representative's August 6, 2020, decision (reference 04) that denied unemployment insurance benefits due to being unavailable for work with CBS Staffing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 6, 2020, by Administrative Law Judge Julie Elder. The claimant was represented by Jennifer Wilkerson, Attorney at Law, and participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The claimant offered and Exhibit One was received into evidence.

A decision was issued on November 13, 2020. That decision was vacated on December 1, 2020, due to a jurisdictional issue.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was diagnosed with a medical condition and prescribed medication. The medication causes drowsiness and must be taken at certain times of the day. Due to her medication schedule, the claimant is able to work a shift roughly from 2:00 p.m. to 10 p.m. She has worked as a certified nursing assistant, a housekeeper in hotels, and a telemarketer. The claimant has been seeking work since January 26, 2020, but had no offers.

The claimant left employment with the employer and that separation was adjudicated in 20A-UI-01892-S1-T on March 30, 2020. The decision was affirmed by the Employment Appeal Board on April 24, 2020. Benefits were denied.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able and available for work. 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".

Iowa Admin. Code r. 871-24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

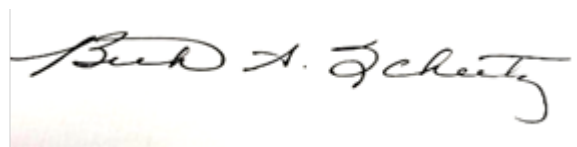
A worker is considered to be unavailable for work when an employee limits working hours for a particular reason. In this case, the claimant limited her working hours but the purpose for the limitation was reasonable. The limitation was not excessive. The claimant is able and available for work as of January 26, 2020.

The claimant is not eligible to receive unemployment insurance benefits because she has a prior disqualification decision. Should the claimant have proof that she has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount since being employed with the employer, she should notify the department immediately.

DECISION:

The representative's August 6, 2020, decision (reference 04) is reversed. The claimant is able and available for work as of January 26, 2020.

Should the claimant have proof that she has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount since being employed with the employer, she should notify the department immediately.



Beth A. Scheetz
Administrative Law Judge

December 14, 2020
Decision Dated and Mailed

bas/scn