

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA L DENNIS

Claimant

APPEAL NO. 08A-UI-07258-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MOBILE NURSING SERVICES LTD

Employer

**OC: 06/08/08 R: 04
Claimant: Appellant (1)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, Angela Dennis, filed an appeal from a decision dated August 4, 2008, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on August 26, 2008. The claimant participated on her own behalf. The employer, Mobile Nursing Services (MNS), participated by Administrator Susan Becker.

ISSUE:

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

FINDINGS OF FACT:

Angela Dennis was employed by Mobile Nursing Services beginning August 14, 2007 as a licensed practical nurse working 36 hours per week. She was scheduled to work, June 16, 17 and 21, 2008, but called in on June 14, 2008, to say she would not be able to work those days. Her in-laws live in Illinois and were in danger of being flooded out so she elected to go and help them sandbag their home. She returned to work on June 22, 2008.

Ms. Dennis's own home was not in any danger of flooding and she could have traveled from her home to the work site without danger to herself from flood waters. There was also no damage to her work place.

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(29) provides:

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

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

The claimant elected to take time off to assist her in-laws during the time of the flood. This was a benevolent thing for her to do, but her classification for purposes of unemployment benefits is not that of a claimant with personal flood damage to her home or an inability to get to work because of flooded roads or destruction of the work place. It is a voluntary time off from work during which she removed herself from being available to her employer for her regular job. Under the provisions of the above Administrative Code section, she was not able and available for the one-week period ending June 21, 2008, and is ineligible for benefits during that time.

DECISION:

The representative's decision of August 4, 2008, reference 01, is affirmed. Angela Dennis is not eligible for benefits for the one-week period ending June 21, 2008, as she was not able and available for work during that time.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs