

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARY C SCHLEMMER**  
Claimant

**APPEAL NO. 11A-UI-02548-M2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MIDWEST PROFESSIONAL STAFFING LLC**  
Employer

**OC: 01/23/11  
Claimant: Appellant (4R)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated February 28, 2011, reference 01, which held claimant not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on March 28, 2011. Claimant participated personally. Employer participated by Angela Essink. Claimant did not participate, having failed to be available at the number provided.

**ISSUE:**

The issue in this matter is whether 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: The claimant's assignment with the employer ended on February 25, 2011. The claimant was able and available for work, and requested reassignment. No work was available.

**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 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The claimant was able and available for work, but her work assignment ended February 25, 2011. She is not employed at the same hours and wages, nor is she employed enough hours to be considered employed. Benefits shall be allowed effective February 27, 2011.

**DECISION:**

The decision of the representative dated February 28, 2011, reference 01, is modified favorable to appellant claimant, and remanded. Claimant is eligible to receive unemployment insurance benefits, effective February 27, 2011, provided claimant meets all other eligibility requirements. The issue of the separation is remanded to Claims for a determination.

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Stan McElderry  
Administrative Law Judge

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Decision Dated and Mailed

srm/css