

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACQUELINE R CAMPBELL

Claimant

APPEAL NO. 09A-UI-01700-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACCESSIBLE MEDICAL STAFFING

Employer

OC: 06-08-08

Claimant: Appellant (1)

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 3, 2008, reference 09, decision that denied benefits. After due notice was issued, a hearing was held on March 20, 2009. The claimant did participate. The employer did participate through Mindy Butler, Administrator.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a CNA part time beginning August 16, 2008 through date of hearing as the employer still considers her an employee.

The claimant last worked on November 26, 2008 and refused further assignments because as she explained to Ms. Butler she did not have money for gas for her car to get to any assignment. Ms. Butler told the claimant to contact her again when she wanted additional assignments. When the claimant was hired she was told she would be assigned to work in many locations within one hour of Burlington. The employer called the claimant again on December 8 to find out if she was available and to offer her a position in Washington, Iowa (the claimant had previously worked in Washington). At that time the claimant reported to Travis that she was in the middle of a high risk pregnancy and was unable to travel to any job sites. The claimant is pregnant and due to deliver in June. The claimant turned down assignments due to no money for gas and her inability to travel due to her pregnancy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work effective November 26, 2008.

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 turned down work on November 26, 2008 because she did not have gas or money for gas to get to the assignment. When the claimant was hired she knew that she could be and was assigned to locations within one hour of Burlington. The claimant also turned down an assignment on December 8 because she told the employer she could no longer travel due to her high risk pregnancy. The claimant knew when she was hired that travel would be part of the job requirements. Her limits on her availability due to lack of gas for her car and her pregnancy make her unavailable for work. Accordingly, benefits are denied.

DECISION:

The February 3, 2009, reference 09, decision is affirmed. The claimant is not able to work and available for work effective November 26, 2008. Benefits are denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css