

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANGELA P RASHID**  
Claimant

**APPEAL NO: 14A-UI-06793-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**INSIGHT PARTNERSHIP GROUP LLC**  
Employer

**OC: 06/08/14**  
**Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Angela P. Rashid (claimant) appealed a representative's June 26, 2014 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 23, 2014. The claimant participated in the hearing. Insight Partnership Group, L.L.C. (employer) participated through Brittney Moss, who presented testimony from one other witness, Todd Meyer. One additional witness, Chailey Bennett, was available on behalf of the employer but did not testify. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

**FINDINGS OF FACT:**

The claimant started working for the employer on April 1, 2013. She worked part time (about 20 – 24 hours per week) as a life skills specialist. She had normally worked several hours daily from about mid-morning to about mid-afternoon. Her last day of work was March 26, 2014.

The claimant had suffered an injury to her right arm while on duty on October 22. Her restrictions in the spring of 2014, which had not been changed as of the date of the hearing in this matter, were no repetitive usage or writing, a five-pound weight restriction, and a four-hour per day work limit. The employer had provided light duty work in the office answering phones which satisfied these restrictions prior to March 26.

The claimant's doctor concluded she had reached maximum medical improvement (MMI) as of about May 9, with a permanent impairment. The employer no longer had office or phone work to offer to the claimant after March 26. In early May it attempted to offer work to the claimant that would have been overnight work. The claimant indicated that she could not do that work at least because of family responsibilities of watching her grandchildren.

**REASONING AND CONCLUSIONS OF LAW:**

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, is available for work, and is earnestly and actively seeking work. Iowa Code § 96.4-3.

To be found able to work, "[a]n individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood." *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); 871 IAC 24.22(1). The claimant has demonstrated that she is able to work in some gainful employment, such as answering phones, even if she is no longer able to perform her prior job duties.

As to scheduling, a claimant must remain available for work on the same basis as when her base period wages were accrued. Rule 871 IAC 24.22(2)f. The claimant's base period wages are premised on part-time employment, so her four-hour work restriction does not substantially change her availability from when her base period wage credits were accrued. The claimant's base period employment was also performed during day hours, not overnight, so the claimant's unavailability for overnight work is not a change from her availability during her base period.

Benefits are allowed, if the claimant is otherwise eligible.

**DECISION:**

The representative's June 26, 2014 decision (reference 01) is reversed. The claimant is sufficiently able to work and available for work effective June 8, 2014. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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