

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RUBILCA FUENTES
Claimant

APPEAL NO: 12A-UI-07435-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON STAFFING COMPANY LC
Employer

OC: 05-13-12
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 15, 2012, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 16, 2012. The claimant participated in the hearing with Interpreter Ninfa Redmond. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed by Jacobson Staffing from August 15, 2011 through May 1, 2012, last assigned to work full-time in the laundry at Marzetti Pasta until she was laid off due to a lack of work. The claimant checked in weekly for other assignments and to see if Marzetti had any further work available, but the employer did not offer her another position between May 1 and July 9, 2012, when she returned to Marzetti part-time. The claimant also sought other work outside Jacobson Staffing during the above-named time frame.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able to work and available for work between May 1 and July 9, 2012.

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 was able and available for any assignments offered by the employer between May 1 and July 9, 2012, and sought further assignment from the employer during that time frame, but the employer did not have any assignments available for her. Accordingly, the claimant was able and available for work between May 1 and July 9, 2012, when she returned to work part-time at Marzettis. Therefore, benefits are allowed.

DECISION:

The June 15, 2012, reference 02, decision is reversed. The claimant is able to work and available for work effective May 1 through July 9, 2012. Benefits are allowed during that time period.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw