

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATHY D YARGES
Claimant

APPEAL NO. 08A-UI-07420-D

**ADMINISTRATIVE LAW JUDGE
DECISION**

CIVIC CTR OF GREATER DES MOINES INC
Employer

**OC: 06/08/08 R: 02
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available
871 IAC 24.22-2-i(3) – On-call Workers

STATEMENT OF THE CASE:

Kathy D. Yarges (claimant) appealed a representative's August 8, 2008 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits in conjunction with her employment with the Civic Center of Greater Des Moines, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, an in-person hearing was held on September 3, 2008. The claimant participated in the hearing. Bill McElrath appeared on the employer's behalf. 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 works as an on-call wardrobe and make-up assistant for theatrical events and other types of events. The claimant works for the employer solely on an as-needed/on-call basis. When an event necessitates the use of wardrobe and make-up assistants, the employer's event coordinator contacts the local theatrical workers union, of which the claimant is a member, which then contacts wardrobe and make-up assistants on its list and provides a list of arranged workers to the event coordinator. The stagehands are then paid by the employer. The claimant similarly works for other employers.

The claimant established a claim for unemployment insurance benefits effective June 8, 2008. Her base period began January 1, 2007 and ended December 31, 2007. During this period, the claimant had wages from the employer, as well as lesser wages from four other employers. The wages from these other four employers were also earned on the same on-call basis as the wages from the employer. There were no wages from any other employers during the base period.

REASONING AND CONCLUSIONS OF LAW:

In order to be eligible to receive unemployment insurance benefits, a claimant must be able to work, be available for work, and be earnestly and actively seeking work. Iowa Code section 96.4-3. Part of the definition of being available for work is that the individual must be “genuinely attached to the labor market.” 871 IAC 24.22-2.

Implementing this provision, rule 871 IAC 24.22-2-i(3) provides in pertinent part:

An individual whose wage credits earned in the base period of the claim consist exclusively of wage credits by performing on-call work, such as a banquet worker, railway worker, substitute school teacher or any other individual whose work is solely on-call work during the base period, is not considered an unemployed individual . . .

The claimant base period wages consist exclusively of credits from on-call work. The claimant is therefore considered unavailable for work and ineligible for unemployment insurance benefits. Benefits are denied.

DECISION:

The representative’s August 8, 2008 decision (reference 02) is affirmed. The claimant’s base period consists exclusively of on-call wage credits; she is therefore considered unavailable for work, and benefits are denied.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css