

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELINDA F HUNTINGTON
Claimant

APPEAL NO. 09A-UI-00454-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

VINTAGE PARK APARTMENTS INC
Employer

OC: 11/30/08 R: 03
Claimant: Respondent (1)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The employer, Vintage Park Apartments, Inc. (Vintage Park), filed an appeal from a decision dated January 5, 2009, reference 01. The decision allowed benefits to the claimant, Melinda Huntington. After due notice was issued, a hearing was held by telephone conference call on January 27, 2009. The claimant participated on her own behalf. The employer participated by Administrator Gail Hartman.

ISSUE:

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

FINDINGS OF FACT:

Melinda Huntington was employed by Vintage Park Apartments beginning June 29, 2007. She was hired as a part-time cook but in March 2008 became a full-time floor worker in the assisted living facility.

The claimant was arrested and jailed July 15, 2008, for receiving precursors to drug manufacture. When she was released August 1, 2008, but has not yet gone to trial on the charges. When Ms. Huntington was released and returned to Vintage Park Apartments, Administrator Gail Hartman told her she was on suspension. Her duties at the facility would give her access to controlled substances and the employer did not feel it was prudent to allow her to remain on duty until her trial resolved the issue.

The claimant has no restrictions on the hours she can work, the type of work she can perform, the distance she can travel or any restrictions to her physical activities.

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".

The claimant has established she has no restrictions on her availability to work. She is available for all shifts and all types of work.

DECISION:

The representative's decision of January 5, 2009, reference 01, is affirmed. Melinda Huntington is able and available for work and eligible for unemployment benefits.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css