

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HILLARIE A WARTH
Claimant

APPEAL NO: 18A-UI-04915-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 04/01/18
Claimant: Respondent (2)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions
Iowa Code § 96.5(3)a – Failure to Accept Work

STATEMENT OF THE CASE:

The employer, Team Staffing Solutions Inc., filed an appeal from the April 19, 2018, (reference 01) unemployment insurance decision that allowed benefits. After due notice, a telephone hearing was held on May 15, 2018. The claimant did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing. The employer participated through human resources generalist Sarah Fiedler. Employer Exhibit 1 was admitted into evidence. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant able to work and available for work effective April 1, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has been employed full-time at Bartek Group since January 2, 2018. During the week of March 25 through March 31, 2018, work was not available at Bartek Group. When the employer contacted the claimant about her availability for other assignments during the week, she indicated she would be staying home with her children who were on spring break (Employer Exhibit 1). She returned to work on April 2, 2018. There has been no separation of employment or offers of work extended since she has been on assignment since January 2, 2018.

The claimant did not establish a claim for unemployment insurance benefits until April 1, 2018 and did not receive any benefits. She has not been making weekly continued claims.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able to and available for work effective April 1, 2018.

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".

Iowa Admin. Code r. 871-24.22(2) provides:

Benefit eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

In this case, the claimant established a claim for unemployment insurance benefits with an effective date of April 1, 2018. She has been working full-time on assignment at the Bartek Group through employer, Team Staffing Solutions since filing her claim, and has not experienced a lack of work or reduction in hours. Accordingly, the claimant does not meet the availability requirements, inasmuch as she is employed full-time for this employer.

If the claimant's circumstances change in the future regarding her full-time employment status and she believes the disqualification based upon full-time employment can be removed, she should contact her local workforce development center immediately to request the disqualification be removed.

Benefits are denied effective April 1, 2018.

DECISION:

The April 19, 2018, (reference 01) decision is reversed. The claimant does not meet the availability requirements due to full-time employment. Benefits are denied effective April 1, 2018.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn