

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SABRINA J SANDS
Claimant

HILL PHOENIX INC
Employer

APPEAL 19A-UI-09695-S1-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/03/19
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Sabrina Sands (claimant) appealed a representative's November 27, 2019, decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits as of November 17, 2019, because she was still employed with Hill Phoenix (employer). That decision was amended by a representative's December 13, 2019, decision (reference 04) and concluded she was not eligible to receive unemployment insurance benefits from November 17, 2019, through November 23, 2019.

After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled to be held on January 7, 2020. On January 2, 2020, the claimant submitted a document stating, "I Sabrina Sands have an appeals hearing Tuesday, Jan 7th that I cannot participate in because I will be working during those hours." The employer did not provide a telephone number where it could be reached.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The claimant filed for unemployment insurance benefits with an effective date of November 3, 2019. She filed an additional claim for benefits on November 17, 2019.

The claimant provided a written statement, "I know I summited my claim early and I shouldn't have. I am looking forward to get paid for the weeks ending 12-28-19 and 01-05-20. I got holiday paid for \$157 each week."

The claimant did not provide any information about whether she was or is able and available for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not able and available for work for the one-week period ending November 23, 2019.

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 the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). The claimant provided no evidence regarding the week ending November 23, 2019. Therefore, she is considered not able and available for work for the one-week period ending November 23, 2019.

DECISION:

The representative's November 27, 2019, decision (reference 03), amended by the representative's decision dated December 13, 2019, (reference 4) is affirmed. The claimant is considered not able and available for work for the one-week period ending November 23, 2019.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/scn