

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CASSANDRA MCCAULEY**  
Claimant

**LONGBRANCH INC**  
Employer

**APPEAL 19A-UI-08295-S1-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/29/19**  
**Claimant: Respondent (1)**

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Iowa Code § 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

Longbranch (employer) appealed a representative's October 22, 2019 decision (reference 02) that concluded Cassandra McCauley (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 13, 2019. The claimant participated personally. The employer participated by Doug De Long, Chief Financial Officer. The employer offered and Exhibit 1 was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 14, 2014, by Aaron Kool as a full-time bartender. Mr. Kool no longer works for the company. Mr. Kool did not tell the owner that the claimant was hired as a full-time worker. The owner was not present when the claimant was hired. The claimant regularly worked Monday through Saturday 4:30 p.m. to approximately 10:30 p.m. The employer's handbook states that an employee who is full-time would qualify for 401k and health care benefits. The manager said that an employee who worked more than thirty-two hours per week would be considered full-time.

In August 2019, a new manager was hired and took over the scheduling. Starting with the week ending September 1, 2019, the new manager sent the claimant home early, due to business needs, one to three days per pay period. The new manager told the owner that the claimant was requesting to leave early. In fact, he was sending at least three employees home early. The claimant requested more hours from the new manager and the owner. She is able and available for full-time work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was able and available for work as of September 29, 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 was hired as a full-time worker. The manager reduced her hours due to business concerns. The claimant was able and available for work as of September 29, 2019.

**DECISION:**

The representative's October 22, 2019, decision (reference 02) is affirmed. The claimant was able and available for work as of September 29, 2019. Benefits are allowed, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/scn