

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EILEEN M BUCK**  
Claimant

**APPEAL NO. 09A-UI-05793-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**J & M PARTNERSHIP  
MCDONALD'S**  
Employer

**OC: 03/01/09**  
**Claimant: Respondent (1)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

McDonald's (employer) appealed a representative's April 8, 2009 decision (reference 01) that concluded Eileen Buck (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 held on May 11, 2009. The claimant participated personally. The employer participated by Elizabeth Fischer, Restaurant Manager.

**ISSUE:**

The issue is whether the claimant is disqualified for being unavailable for work.

**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 March 28, 2002, as a part-time crew member. She worked between 36 and 39 hours per week unless business was slow. The claimant was absent from work due to a non-work-related injury. She returned to work without restriction and the employer reduced her hours. Some weeks the claimant worked as little as 12 hours. Claimant was able and available to work her regular hours but was scheduled to work fewer hours than regularly scheduled in the past. Claimant reported gross wages each week.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

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".

Claimant was able and available to work her regular hours but was scheduled to work fewer hours than regularly scheduled in the past. Accordingly, benefits are allowed.

**DECISION:**

The representative's April 8, 2009 decision (reference 01) is affirmed. The claimant is able to work and available for work. 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/css