

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY E TIBBOEL
Claimant

APPEAL NO. 13A-UI-03158-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 02/03/13
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 8, 2013, reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on April 10, 2013. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate. Exhibits A and One were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant works full time for employer. Claimant has worked 35 to 40 hours consistently for employer.

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".

Inasmuch as the claimant is working full-time hours she is not available for work. Benefits are withheld effective February 3, 2013.

DECISION:

The decision of the representative dated March 8, 2013, reference 01, is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective February 3, 2013.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css