

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICHARD J CURD**

Claimant

**APPEAL NO. 09A-UI-09534-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KELLY SERVICES INC**

Employer

**OC: 04/26/09**

**Claimant: Appellant (1)**

Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The claimant, Richard Curd, filed an appeal from a decision dated June 24, 2009, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on July 20, 2009. The claimant participated on his own behalf. The employer, Kelly Services, participated by Senior Supervisor Nancy Voelker.

**ISSUE:**

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

**FINDINGS OF FACT:**

Richard Curd was employed by Kelly Services from July 8, 2008. His last assignment ended around the first of May 2009 at which time he notified the employer he would not be available until the first of June 2009 due to the death of his mother. He was contacted by the employer on May 15, 2009, to offer him an assignment at JCG for two weeks. He declined saying he still had the family matters to attend to and would be available around the first of June 2009. The employer again contacted him toward the end of the month and he accepted a job which began after the first of June 2009.

**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".

871 IAC 24.23(29) provides:

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

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

The claimant was not available to his regular employer for the period May 17 through 30, 2009, because he was involved in personal family matters. Although he was still an employee in good standing he was not available to accept another assignment during that time. Under the provisions of the above Administrative Code section, he is not eligible for benefits during that two-week period.

**DECISION:**

The representative's decision of June 24, 2009, reference 02, is affirmed. Richard Curd is not eligible for benefits for the two-week period from May 17 through 30, 2009.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs