

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRA R MUMMA
Claimant

APPEAL NO. 09A-UI-05310-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OX YOKE INN INC
Employer

OC: 02/08/09
Claimant: Respondent (1)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Ox Yoke Inn filed a timely appeal from a representative's decision dated March 23, 2009, reference 01, which found the claimant available for work. After due notice, a telephone conference hearing was scheduled for and held on May 1, 2009. Although duly notified, the claimant did not participate. The employer participated by Connie Hickerson, Representative of witness Kathy Rasmussen, Comptroller.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness and having considered all of the evidence in the record, finds: Ms. Mumma is employed as a part-time server for the Ox Yoke Inn LLC. The claimant began her employment in October 2004 and continues to be employed on a part-time basis when work is available to her.

It is the employer's position that the claimant should not be considered to be able and available for work as she did not make herself available for one eight-hour shift during the week ending February 14, 2009 and one eight-hour shift during the week ending February 28, 2009.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant is not able and available for work. It does not.

The evidence in the record establishes that the claimant is employed as a part-time server for Ox Yoke Inn and that the claimant's working hours vary depending upon employer needs. At times working shifts are cancelled by the employer. The evidence in the record establishes that on two occasions the claimant did not make herself available for eight-hour shifts at this

employer. The evidence establishes that claimant was able and available for work during the majority of each of the workweeks in question.

871 IAC 24.23(25) provides that among the reasons for a claimant being disqualified for being unavailable for work is (25) if the claimant is unavailable for personal reasons for the major portion of the workweek and not in the labor market.

The evidence in the record establishes that Ms. Mumma was available for work during the major portion of each of the weeks that she claimed unemployment insurance benefits. The administrative law judge thus concludes that the claimant is able and available for work and eligible to receive unemployment insurance benefits providing that she meets all other eligibility requirements.

DECISION:

The representative's decision dated March 23, 2009, reference 01, is affirmed. The claimant is able and available for work.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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