

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRISTI NOSBISCH
Claimant

APPEAL NO: 10A-UI-17369-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/17/10
Claimant: Appellant (2)

Iowa Code § 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

Kristi Nosbisch (claimant) appealed an unemployment insurance decision dated December 20, 2010, reference 04, which denied benefits for the one-week period ending December 4, 2010 because she was not able and available that week. After a hearing notice was mailed to the party's last-known address of record, a telephone hearing was held on Saturday, January 29, 2011. The claimant participated in the hearing. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant was able and available for work the week ending December 4, 2010?

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 able and available for work during the one-week period ending December 4, 2010. She did start a job that week but quit the same day and was never paid for her time.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is able and available for work. For the reasons that follow, the administrative law judge concludes the claimant has established a good cause reason for having failed to report as directed. In order for an individual to be eligible to receive unemployment insurance benefits, the evidence in the record must establish that she is able to work, available for work, and earnestly and actively seeking work. See Iowa Code § 96.4(3) and 871 IAC 24.22.

Iowa Code § 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 her ability and availability for work. Davoren v. Iowa Employment Security Commission, 277 N.W.2d 602 (Iowa 1979). She has provided credible testimony that she was able and available for work during the week ending December 4, 2010. Consequently, benefits are allowed provided she is otherwise eligible.

DECISION:

The unemployment insurance decision dated December 20, 2010, reference 04, is reversed. The claimant was able and available for work during the week ending December 4, 2010. Benefits are allowed, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css