

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LISA WEILAND
Claimant

APPEAL 16A-UI-07831-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRIDGE COMMUNITY BANK
Employer

**OC: 06/26/16
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 14, 2016, (reference 02) unemployment insurance decision that denied benefits based upon her failure to meet the availability requirements of the law. The parties were properly notified of the hearing. A telephone hearing was held on August 4, 2016. The claimant Lisa Weiland participated and testified. The employer Bridge Community Bank participated through CEO Robert Steen and President Kevin Driscoll. Claimant's Exhibits A and B were received into evidence.

ISSUE:

Is the claimant able to work and available for work effective June 26, 2016?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a mortgage loan officer from March 22, 2004, until this employment ended on December 31, 2015, when she voluntarily quit.

In late 2015, claimant's son was diagnosed with terminal cancer. Following this diagnosis claimant voluntarily resigned her position with her last employer. Claimant's son is also developmentally disabled. Her son's disability, along with his cancer diagnosis made it nearly impossible to receive care outside the home. This has required claimant to be his full time caregiver for an unknown period of time. (Exhibit A). Claimant's son was initially given a life expectancy of six months, though this has since been increased to between one and two years. Claimant is not able to work and provide full time care for her son.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Though her reasons for doing so are understandable and commendable, claimant has chosen to remove herself from the workforce to care for her ailing son. Since claimant is and has been caring for her son since the separation date, again for extremely compelling personal reasons, she has limited her availability for work and has not established her availability for work as is her burden. Accordingly, benefits are denied.

DECISION:

The July 14, 2016, (reference 02) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective June 26, 2016. Benefits are withheld until such time as she is deemed eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

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