

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHARON POWELL
Claimant

L AL LEASING INC
Employer

APPEAL 15A-UI-13315-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/25/15
Claimant: Respondent (1)**

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The employer filed an appeal from the November 24, 2015, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 21, 2015. Claimant participated. Employer participated through Tanner McCutcheon, Account Manager and (representative) Chad Baker, Workers Compensation Administrator.

ISSUES:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was last assigned to work at Rock Ten which shut down and all employees were laid off. The claimant was notified on October 21 that she would no longer have any work. She was not notified by Corey Mesta but by L. A. Leasing employees actually at the Rock Ten plant. The claimant was told by the employer that she had to ask for additional work. She physically went to the employer's office on Friday, October 23 and spoke to employee, Corey Mesta. At that time Ms. Mesta told the claimant about a one-day assignment on October 31, 2015. The claimant turned down the assignment because she was going to be out of town in Chicago that day. Ms. Mesta never called the claimant as was indicated because the number the employer had for the claimant was not her telephone number. Claimant credibly testified she spoke to Ms. Mesta in the employer's office on October 23 when she was physically in the office. The claimant had prior plans for the one-day assignment offered to her. She is able to and available for work and has continued to seek work from this employer, who to date has not put her back to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is 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 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".

Iowa Admin. Code r. 871-24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

The claimant was not able to work one day of a week. She was available to work the majority of the week. The claimant is able to and available for work and has remained so. She had sought additional work from this employer. Accordingly, benefits are allowed.

DECISION:

The November 30, 2015, reference 01, decision is affirmed. The claimant is able to work and available for work effective October 25, 2015. Benefits are allowed.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs