

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROL A HONKEN
Claimant

APPEAL NO. 09A-UI-00003-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09-14-08 R: 02
Claimant: Appellant (2)**

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 23, 2008, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on January 28, 2009. The claimant did participate.

ISSUE:

Was the claimant able to and available for work from the period of November 9, through December 20, 2008?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant was temporarily laid off from her employment with Kelly Services for 90 days. She was told Kelly had no additional assignments for her but that she would be sent back to her assignment at Kraft Foods in late December after her temporary 90-day layoff ended. The claimant did not make work searches because she was told she was not required to on a temporary layoff. She was available to return to work if she had been called by Kelly to go back to Kraft or any other assignment she was given, notwithstanding the fact that she left the state for a period of time.

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 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".

The claimant was on a temporary layoff from her employer and was in contact with her employer during the time period she was laid off. She was told by her local workforce office that she did not have to engage in work searches because of the status of her temporary layoff. She was available to return to work whenever the employer called her back even though she spent a period of time out of the state. Thus, the administrative law judge concludes that the claimant was able to and available for work from November 9 through December 20, 2008. Accordingly, benefits are allowed.

DECISION:

The December 23, 2008, reference 03, decision is reversed. The claimant is able to work and available for work effective November 9, 2008. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs