

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ELIZABETH A HENSON
Claimant

DOHERTY STAFFING SOLUTIONS
Employer

APPEAL 15A-UI-02283-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 10, 2015 (reference 03) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 24, 2015. Claimant participated. Employer participated through Glenda M. Niemiec, Unemployment Insurance Benefits Administrator.

ISSUE:

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 Polaris through this employer Doherty Staffing Solutions.

She was laid off due to lack of work from December 24, 2014 through January 4, 2015. She did not re-open her claim for unemployment insurance benefits or file for weekly benefits while on layoff. The claimant did not contact anyone at Iowa Workforce Development to ask how she should reopen her claim or how to file her weekly claim despite the fact that she had successfully claimed unemployment insurance benefits on prior occasions.

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".

The claimant did not have work from December 24, 2014 through January 4, 2015. She did not reopen her claim for benefits nor did she make her weekly or continuing claim. The claimant was able to and available for work but did not file for weekly benefits during the weeks she was laid off.

DECISION:

The February 10, 2015 (reference 03) decision is reversed. The claimant is able to work and available for work effective January 11, 2015. Benefits are allowed, only if the claimant is otherwise eligible.

REMAND:

The issue as to whether the claimant is eligible to have her claim for benefits backdated and whether she is eligible for retroactive benefits is remanded to the UISC for an initial review and determination.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

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