

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AMY J AGUILERA
Claimant

PILOT TRAVEL CENTERS LLC
Employer

APPEAL 19A-UI-09258-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/20/19
Claimant: Respondent (2)**

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Pilot Travel Centers (employer) appealed a representative's November 20, 2019, decision (reference 01) that concluded Amy Aguilera (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 18, 2019. The claimant did not provide a telephone number where she could be reached and, therefore, did not participate. The employer participated by Beni Butler, Travel Center General Manager. The employer offered and Exhibit One was received into evidence. The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the claimant is able and available for work.

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 hired on November 6, 2008, as a full-time gas service leader two. She generally worked thirty-seven to forty hours per week.

The claimant may have had some personal issues and the employer perceived she was having some hard times in her life. She left work early on many occasions and took days off when full-time work was available. The claimant filed for unemployment insurance benefits with an effective date of October 20, 2019. She did not file a weekly claim or receive any unemployment insurance benefits.

From October 20, 2019, through November 20, 2019, the claimant was scheduled to work a total of 175 hours or an average of thirty-nine hours per week. She worked 134.75 hours and took at least three days of vacation. The claimant is working more hours as time progresses. Full-time work is always available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able and available for work because she is fully employed.

Iowa Admin. Code r. 871-24.23(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). She did not appear for the hearing and presented no evidence. The evidence shows that the claimant is fully employed and is therefore not able and available for other work. Benefits are denied.

DECISION:

The representative's November 20, 2019, decision (reference 01) is reversed. The claimant is disqualified from receiving unemployment insurance benefits because she was not available for other work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/scn