

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARA J RETTKOWSKI
Claimant

APPEAL NO: 06A-UI-09201-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMMUNITY ACTION OF EASTERN IOWA
Employer

OC: 05/28/06 R: 04
Claimant: Respondent (1)R

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Community Action of Eastern Iowa (employer) appealed a representative's September 13, 2006 decision (reference 04) that concluded Sara Rettkowski (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 September 27, 2006. The claimant did not provide a telephone number where she could be reached and, therefore, did not participate. The employer participated by Pamela damHorst, Benefits and Human Resources Administrator.

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 January 1, 2001, as a full-time classroom aide in Head Start. The claimant was laid off on May 14, 2006, because the Head Start program is discontinued during the summers. The claimant has been laid off each summer and returns each fall. The claimant understood she could return to work on August 17, 2006. On August 10, 2006, the claimant notified the employer that she was quitting. The claimant did not provide a reason for quitting. Continued work was available on August 17, 2006, had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge finds the claimant was able 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 did not participate in the appeal hearing. No evidence was presented at that hearing of the claimant's inability or unavailability for work. Consequently, the claimant is considered to be able and available for work. Benefits are allowed.

The issue of the separation from employment is remanded for determination.

DECISION:

The representative's September 13, 2006 decision (reference 04) is affirmed. The claimant is not disqualified from receiving unemployment insurance benefits. She is considered to be able and available for work. The issue of the claimant's separation from employment is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/cs