

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROLYN A WILLIAMS
Claimant

APPEAL NO. 08A-UI-09008-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BISTROS AND MORE INC
Employer

OC: 07/15/07 R: 02
Claimant: Appellant (4-R)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Carolyn Williams filed an appeal from a representative's decision dated September 22, 2008, reference 03, which denied benefits effective July 6, 2008 on a finding that she was on a requested leave of absence. After due notice was issued, a hearing was held by telephone on October 21, 2008. Ms. Williams participated personally. The employer participated by Brian Lenzmenier, General Manager.

ISSUE:

At issue in this matter is whether Ms. Williams has satisfied the availability requirements of the law since filing her additional claim for benefits effective July 6, 2008.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Williams began working for Bistros and More, Inc. on February 2, 2008 and worked part time as a food server. She worked from 17 to 20 hours each week. She requested and was granted a leave of absence to be gone from August 8 until September 27, 2008.

Ms. Williams requested the leave of absence because she started working a full-time job with Dewey Ford on July 28. She wanted to take time off from her part-time job while she became acclimated to her new full-time job. She was working approximately 50 hours each week in her new job. On September 10, she notified Bistros and More, Inc. that she was quitting.

REASONING AND CONCLUSIONS OF LAW:

Ms. Williams was working part time for Bistros and More, Inc. when she requested a leave of absence. The fact that she accepted full-time work elsewhere is indicative of her availability for work. The administrative law judge concludes that she was partially unemployed when she filed her additional claim effective July 6, 2008. Her leave of absence did not begin until August 8, 2008, after the period for which she claimed benefits. Inasmuch as she was still available for full-time work before the leave of absence, it is concluded that she was available for work within

the meaning of Iowa Code section 96.4(3). Accordingly, Ms. Williams is allowed benefits effective July 6, 2008.

Ms. Williams was no longer available for work once she started working for Dewey Ford on July 28, 2008. She was working full time and, therefore, no longer in the labor market. See 871 IAC 24.23(23). Therefore, benefits are denied as of the Sunday of the week she began full-time employment, July 27, 2008. Ms. Williams did not claim job insurance benefits after the week ending July 26, 2008.

Bistros and More, Inc. is not currently a base period employer on Ms. Williams' claim. Therefore, they are not currently chargeable for any benefits paid to her. She has subsequently become separated from the employment. Since the September 10, 2008 separation has not been adjudicated by Workforce Development, the matter shall be remanded to Claims to issue a determination on the separation.

DECISION:

The representative's decision dated September 22, 2008, reference 03, is hereby modified. Ms. Williams is allowed benefits effective July 6, 2008 as she was available for work. Benefits are denied effective July 27, 2008 because she was no longer available for work. Benefits are denied until such time as she is again available for work, provided she satisfies all other conditions of eligibility. This matter is remanded to Claims to issue a determination concerning Ms. Williams' September 10, 2008 separation from Bistros and More, Inc.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs