

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHAQUIDA M HUNTLEY
Claimant

APPEAL 19A-UI-00867-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RISEN SON CHRISTIAN VILLAGE
Employer

**OC: 03/25/18
Claimant: Respondent (1R)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The employer filed an appeal from the January 24, 2019, (reference 03) unemployment insurance decision that allowed benefits based upon a determination that claimant is now able to and available for work. The parties were properly notified of the hearing. A telephonic hearing was held on February 14, 2019. The claimant, Shaquida M. Huntley, did not register a telephone number at which to be reached and did not participate in the hearing. The employer, Risen Son Christian Village, participated through Wendy Boliver, Human Resources Director. Employer's Exhibits 1 through 5 were received and admitted into the record.

ISSUE:

Is the claimant able to work and available for work effective December 23, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time, most recently as a CNA, from June 13, 2018, until July 30, 2018, when she separated from employment. This separation has not yet been the subject of a fact-finding interview with Iowa Workforce Development. Boliver had no firsthand information about whether claimant is currently able to work or available for work. The employer has not offered claimant any work since her separation in July 2018. It is unclear whether claimant has earned any wages since this separation, and the issue of requalification has not yet been addressed by the agency.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is currently able to and available for work. Benefits are allowed, provided claimant is otherwise eligible.

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".

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. In this case, the record contains no information that claimant is not able to work and available for work. Accordingly, benefits are allowed, provided claimant is otherwise eligible.

This matter will be remanded to further explore whether claimant's separation from this employer is disqualifying and whether claimant has requalified.

DECISION:

The January 24, 2019 (reference 03) unemployment insurance decision is affirmed. Claimant is able to and available for work. Benefits are allowed, provided claimant is otherwise eligible.

REMAND:

The issues of whether claimant's separation from Risen Son Christian Village is disqualifying and whether claimant has requalified for benefits are remanded to the Benefits Bureau of Iowa Workforce Development for initial investigation and determination.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn