

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

BILLIE J PAYNE
Claimant

APPEAL NO. 17A-UI-00739-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAREWAY STORES INC
Employer

OC: 12/25/16
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Billie Payne (claimant) appealed a representative's January 12, 2017, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits based on her employment with Fareway Stores (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 13, 2017. The claimant participated personally. The employer participated by Theresa McLaughlin, Director of Human Resources, and Jeff Meyers, Market Manager.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable 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 October 17, 2016, as a part-time market clerk. She worked on the weekends for the employer. The claimant stopped working after December 17, 2016. She told the employer she took time off to work more hours for her full-time employer.

The claimant also worked a full-time job at Bertch Cabinet Manufacturing. Bertch laid the claimant off due to lack of work from December 25, 2016, to December 31, 2016, and January 8 to January 14, 2017. The claimant did not work at either job during those two weeks. On January 10, 2017, the claimant notified the employer she was resigning because of her full-time job. She filed for unemployment insurance benefits with an effective date of December 25, 2016.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is not eligible to receive unemployment insurance benefits.

Iowa Admin. Code r. 871-24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

When an employee requests and is granted time off, she is considered to be unavailable for work. The claimant requested time off to work at Bertch when there was no work at Bertch. The employer granted her request. The change in hours was initiated by the claimant. She is considered to be unavailable for work from December 25, 2016, to January 14, 2017. The claimant is disqualified from receiving unemployment insurance benefits from December 25, 2016, to January 14, 2017, due to her unavailability for work.

DECISION:

The representative's January 12, 2017, decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits from December 25, 2016, to January 14, 2017.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs