

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA M BICKFORD

Claimant

APPEAL NO. 100-UI-09924-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERIGAS PROPANE INC

Employer

OC: 01/10/10

Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 2, 2010, reference 02, decision that denied benefits to the claimant. A hearing was held on April 22, 2010. In a decision dated May 14, 2010, Administrative Law Judge Elder affirmed the previous decision. The claimant appealed the matter the Employment Appeal Board. The Employment Appeal Board in a decision dated July 8, 2010, remanded the matter for a new hearing. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 8, 2010. The claimant participated personally. The employer provided a telephone number for the hearing dated April 22, 2010, but not for the hearing dated September 8, 2010. The administrative law judge left a message for the employer at the telephone number provided for the April 22, 2010. The employer did not return the call and, therefore, did not participate in the hearing.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant separated from her full-time employer, Rockwell Collins, due to a permanent layoff January 9, 2009. The claimant filed for unemployment insurance benefits with an effective date of January 11, 2009. She returned to school in January 2009. On March 9, 2009, she was hired as a part-time customer relations representative for Amerigas Propane on March 9, 2009, and continues to be employed at that capacity. In a decision dated August 21, 2009, reference 03, the claimant was approved for Department Approved Training (DAT) from August 16, 2009, through January 9, 2010. In a decision dated September 14, 2009, reference 02, the claimant was found to be eligible to receive unemployment insurance benefits starting July 19, 2009, because she was employed with the same employer in the same way as before she filed her claim.

The claimant opened a new claim for unemployment insurance benefits with an effective date of January 10, 2010. She reported her wages each week and received unemployment insurance

benefits from January 10 through February 20, 2010. In a decision dated April 1, 2010, reference 03, the claimant was approved for DAT from March 28 through May 8, 2010. The claimant continues to be employed with this same employer in the same way as before she filed her current claim.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits.

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 continues to be employed with this same employer in the same way as before she filed her current claim. While she was not able and available for work due to attending school, she is allowed to receive unemployment insurance benefits through May 8, 2010, because she was approved for DAT. Benefits are allowed through May 8, 2010.

DECISION:

The representative's March 2, 2010 decision (reference 02) is reversed. The claimant continues to be employed with this same employer in the same way as before she filed her current claim. She was not able and available for work due to attending school but is allowed to receive unemployment insurance benefits through May 8, 2010, because she was approved for DAT. Benefits are allowed through May 8, 2010.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css