

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESSICA D SYKES
Claimant

FOCUS SERVICES LLC
Employer

APPEAL 17A-UI-03067-JP-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/26/17
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 15, 2017, (reference 05) unemployment insurance decision that denied benefits as of February 26, 2017. The parties were properly notified about the hearing. A telephone hearing was held on April 12, 2017. Claimant participated. Employer did not participate.

ISSUE:

Is the claimant able to work and available for work effective February 26, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a supervisor from March 2016, and was separated from employment on November 10, 2016.

On November 10, 2016, claimant went to Chicago to help her mother because her mother was sick. Claimant did not return until around January 10 or 11, 2017. Once claimant returned from Chicago, she was available for work. Claimant has been making two work search contacts per week since she returned from work. Claimant is not limiting her availability for work. Claimant filed her claim for benefits with an effective date of February 26, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant was able to work and available for work effective February 26, 2017.

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. Since claimant returned from Chicago in January 2017, she has been able to work, she has been making a minimum of two job contacts per week, and has not limited her availability. Accordingly, benefits are allowed effective February 26, 2017.

DECISION:

The March 15, 2017, (reference 05) unemployment insurance decision is reversed. Claimant is able to work and available for work effective February 26, 2017. Benefits are allowed, provided claimant is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

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