

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARAINÉ J WAHL
Claimant

APPEAL NO. 07A-UI-07843-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03-11-07 R: 03
Claimant: Appellant (1)**

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 13, 2007, reference 02, decision that found her not able to and available for benefits for the week ending July 28, 2007. After due notice was issued, a hearing was held on August 30, 2007. The claimant did participate. Claimant's Exhibit A was received.

ISSUE:

Was the claimant able to and available for work for the week ending July 28, 2007?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant was out of town due to a death in the family from July 22 through July 28, 2007. She did not make any job contacts that week because she was out of town dealing with the death in her family.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work for the week ending July 28, 2007.

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".

871 IAC 24.23(13), (25) provides:

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

(13) If a claimant is visiting in another area and is not in the labor market.

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

The claimant was out of town for the majority of the week to deal with a death in her family. While it is understandable that the claimant would want to be with her family during the period of the funeral and the burial, her being out of town for the majority of the week makes her not able to and available for work for the week ending July 28, 2007. Accordingly, benefits are denied for the one week period ending July 28, 2007.

DECISION:

The August 13, 2007, reference 02, decision is affirmed. The claimant is not able to work and available for work effective for the one-week period ending July 28, 2007. Benefits are allowed after the one week period ending July 28, 2007, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw