

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANICE M PLACEK
Claimant

APPEAL NO. 09A-UI-05183-A

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 10/26/08
Claimant: Appellant (4)

Section 96.4-3 – Available for Work

STATEMENT OF THE CASE:

Janice M. Placek filed a timely appeal from an unemployment insurance decision dated March 24, 2009, reference 03, that disqualified her for benefits. After due notice was issued, a hearing was held in Dubuque, Iowa on June 18, 2009 with Ms. Placek participating. Area Manager Kathy Hutchinson testified for the employer, Sedona Staffing, which was represented by Unemployment Benefits Administrator, Colleen McGuinty. Employer Exhibit One was admitted into evidence.

ISSUE:

Is the claimant eligible for unemployment insurance benefits?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Janice M. Placek began working on assignments for Sedona Staffing in April of 2008. Her assignment at MedPlast ended on January 30, 2009, a Friday. On the following day, Ms. Placek's husband suffered a heart attack. A week later, he contracted pneumonia. During the third week of February he had a second heart attack; and in the fourth week of February, he had a stroke. Ms. Placek was caring for her husband during the month. She contacted Area Manager Kathy Hutchinson on February 10, 2009, and advised her of the situation. Ms. Placek continues to work through Sedona Staffing and has returned to an assignment at MedPlast.

REASONING AND CONCLUSIONS OF LAW:

Although the fact-finding decision treated the situation as a voluntary quit, the evidence persuades the administrative law judge that the employment relationship between Ms. Placek and Sedona Staffing has not come to an end. Instead, the question is whether Ms. Placek should receive unemployment insurance benefits for the month of February while she was caring for her husband.

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 evidence in this record persuades the administrative law judge that Ms. Placek was not available for work during February of 2009 while she cared for her husband. Benefits are withheld for the four weeks ending February 28, 2009. The claimant is entitled to receive unemployment insurance benefits thereafter, provided she is otherwise eligible.

DECISION:

The unemployment insurance decision dated March 24, 2009, reference 03, is modified. The claimant is ineligible for unemployment insurance benefits for the four weeks ending February 28, 2009. She is entitled to receive unemployment insurance benefits thereafter, provided she otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

srs/pjs