

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KRISTINA M NEWSOME
Claimant

APPEAL 16A-UI-13464-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HARKLAU HOTEL 523 LLC
Employer

OC: 01/03/16
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 8, 2016, (reference 02) unemployment insurance decision that denied benefits based upon not being able to or available for work. The parties were properly notified about the hearing. A telephone hearing was held on January 11, 2017. Claimant participated. Employer did not respond to the hearing notice instruction and did not participate.

ISSUE:

Is the claimant able to work and available for work effective November 13, 2016?
Does the claimant meet the definition of being considered partially unemployed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed as a full-time (32 to 40 hours per week) desk clerk. Her hours are reduced to 16 to 20 hours per week due to a seasonal work shortage. Claimant is able and available to work her regular hours. She has reported gross wages each week during which benefits were claimed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is partially unemployed and is able to work and available for work.

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".

Since employer did not provide claimant with her regular full-time hours as contemplated at hire and as established during the base period wage history, partial benefits are allowed as claimed.

DECISION:

The December 8, 2016, (reference 02) unemployment insurance decision is reversed. The claimant is able to work and available for work effective November 13, 2016. Benefits are allowed, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs