

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HOLLY D SCHAFFER
Claimant

TAHER INC
Employer

APPEAL 20A-UI-00104-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/24/19
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the December 27, 2019 (reference 01) unemployment insurance decision that found claimant was not eligible for unemployment benefits because she was not ready, willing or able to perform work effective November 24, 2019. The parties were properly notified of the hearing. A telephone hearing was held on January 28, 2020. The claimant, Holly D Schaffer, participated personally. The employer, Taher Inc., did not participate. Claimant's Exhibit A was admitted. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records including the fact-finding documents.

ISSUE:

Was the claimant able to work and available for work effective November 24, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed her initial claim for unemployment insurance benefits effective November 24, 2019 because there was a lack of work over the Thanksgiving holiday. The claimant works part-time as a kitchen worker for this employer. She works 4.75 hours per day, Monday through Friday each week. This employer cooks and serves food to students and employees in the Charles City, Iowa school district. The school was closed for the holiday, leading to a lack of work for the claimant. The employer was shut down for the Thanksgiving holiday on Wednesday, November 27, 2019; Thursday, November 28, 2019; and Friday, November 30, 2019. The employer was shut down for the Christmas holiday the entire work week of December 23, 2019 through December 27, 2019. The employer was shut down for the New Year's holiday from Monday, December 30, 2019 through Wednesday, January 1, 2020. There was no work available for the claimant during these holiday shut downs.

Claimant had surgery prior to the Thanksgiving holiday and was off work sick on Monday, November 25, 2019 and Tuesday, November 26, 2019. However, she was released to return back to work effective Wednesday, November 27, 2019. See Exhibit A. Claimant filed three weekly-continued claims to date for the benefit weeks ending November 30, 2019;

December 28, 2019 and January 4, 2020. She has been able to and available for work for this employer for the majority of each of these work weeks; however, work was not available to her because of the three holiday shut-downs. Claimant reported the wages that she earned during the weeks in which she filed weekly-continued claims for benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was able to and available for work effective November 24, 2019. Benefits are allowed, provided claimant is otherwise eligible.

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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

The claimant has sufficiently demonstrated to the satisfaction of the administrative law judge that she was able to and available for work for the majority of the benefit weeks ending November 30, 2019; December 28, 2019 and January 4, 2020. However, no work was available to her due to the employer's holiday shut downs. Benefits are allowed effective November 24, 2019, provided the claimant is otherwise eligible.

DECISION:

The December 27, 2019 (reference 01) unemployment insurance decision is reversed. The claimant was able to and available for work effective November 24, 2019. Benefits are allowed, provided claimant is otherwise eligible.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs