

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRA S MORRISON
Claimant

APPEAL NO. 07A-UI-11259-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

K G B INC
SUBWAY RESTAURANT
Employer

OC: 11/04/07 R: 02
Claimant: Respondent (1)

Iowa Code § 96.4(3) - Able and Available

STATEMENT OF THE CASE:

The employer filed a timely appeal from the November 29, 2007, reference 01, decision that allowed partial benefits. After due notice was issued, a telephone conference hearing was held on December 19, 2007. Claimant participated. Employer participated through Lee Ann Spencer.

ISSUE:

The issue is whether claimant is able to and available for work effective November 4, 2007.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant is employed as a part time clerk and her hours were reduced after her return from a two-week vacation from October 17 through October 31. Employer did not schedule her for work between November 4 and November 7, 2007, thus claimant filed a claim for partial benefits for the week ending November 10, 2007. She did report wages for that week.

REASONING AND CONCLUSIONS OF LAW:

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

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".

Since employer did not schedule claimant within a reasonable time after her anticipated return from vacation, partial benefits for the week ending November 10, 2007 are allowed.

DECISION:

The November 29, 2007, reference 01, decision is affirmed. The claimant is able to work and available for work effective November 4, 2007. Benefits are allowed, provided the claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs