

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUCINDA R GREEN
Claimant

APPEAL NO. 14A-UI-06598-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CATHOLIC HEALTH INITIATIVES - IOWA
Employer

OC: 01/19/14
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 13, 2014 (reference 01) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on July 17, 2014. The claimant did participate. The employer did not participate.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant works as a teacher for several different employer's including the one included in this hearing. She seeks unemployment insurance benefits between the semester break and during the Christmas break.

Another decision, Appeal No. 14A-UI-05664-S2T, denied the claimant benefits for the period between academic years and is currently on appeal to the Employment Appeal Board.

During the time she was off work, the claimant was not seeking other full-time employment but was instead waiting for the new semester to begin. She began teaching for the new semester for this employer, Drake University, and DMACC.

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.

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".

Iowa Admin. Code r. 871-24.23(3), (16) provides:

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

(3) If an individual places restrictions on employability as to the wages and type of work that is acceptable and when considering the length of unemployment, such individual has no reasonable expectancy of securing work, such individual will be deemed not to have met the availability requirements of Iowa Code § 96.4(3).

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

Initially the administrative law judge concludes that the claimant's status as an employee between academic semesters has already been determined in another appeal.

Here the claimant was not really seeking new employment, she was merely waiting for the break to be over so that she could return to work. Under these circumstances she is not considered able to and available for work and benefits must be and are denied.

DECISION:

The February 13, 2014 (reference 01) decision is affirmed. The claimant is not able to work and available for work effective January 19, 2014. Benefits are denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/can