

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRANDI R HENLEY
Claimant

APPEAL NO. 13A-UI-04407-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GIT-N-GO CONVENIENCE STORES INC
Employer

OC: 03/24/13
Claimant: Appellant (2)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated April 9, 2013, reference 02, which denied benefits as of March 24, 2013 finding the claimant's failure to make adequate arrangements for child care was unduly limiting her availability for work. After due notice was provided, a telephone hearing was held on May 21, 2013. Claimant participated. The employer participated by Ms. Tara McKeehan, Merchandiser.

ISSUE:

The issue is whether the claimant is able and available for work within the meaning of the Employment Security Law.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Brandi Henley was employed by Git-N-Go Convenience Stores, Inc. until March 18, 2013 when she was separated by the employer for failure to have adequate child care arrangements and excessive absenteeism.

Ms. Henley did not have child care arrangements due to her babysitter having other obligations. Ms. Henley maintains that she has now secured sufficient child care arrangements at a licensed day care facility and those arrangements were made effective the week beginning March 24, 2013 and continued to be in place at the time of hearing.

REASONING AND CONCLUSIONS OF LAW:

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".

An otherwise eligible claimant is eligible to receive benefits with respect to any week only if the evidence indicates that the individual is able to work, is available for work, and is earnestly and actively seeking work. Iowa Code section 96.4(3) and 871 IAC 24.22. The claimant bears the burden of establishing that the claimant meets the above requirements. 871 IAC 24.22.

To satisfy the availability requirement, an individual must be willing, able and ready to accept suitable work which the individual does not have good cause to refuse and the claimant must not have limitations or restrictions that unduly limit the claimant's ability to seek and accept proper employment. In this matter, the claimant testified under oath that she had arranged and secured sufficient child care arrangements effective the week of March 24, 2013 and that the claimant is willing and able to accept immediate employment because adequate child care arrangements are in place.

Based upon the claimant's sworn representations, the administrative law judge concludes that the claimant has established that she is available for work effective March 24, 2013 and is eligible to receive unemployment insurance benefits, providing that she is otherwise eligible.

DECISION:

The representative's decision dated April 9, 2013, reference 02, is reversed. Claimant is able and available for work effective March 24, 2013 and is eligible to receive unemployment insurance benefits, providing that she has met all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs