

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

LYDIA LEWIS
Claimant

APPEAL NO. 17A-UI-11554-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ANAM CARA CORPORATION
Employer

OC: 10/15/17
Claimant: Respondent (1)

Iowa Code § 96.4(3) – Able and Available
871 IAC 24.23(26) – Part-Time Worker – Able and Available

STATEMENT OF THE CASE:

Anam Cara Corporation (employer) appealed a representative's November 2, 2017, decision (reference 01) that concluded Lydia Lewis (claimant) eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 6, 2017. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by Roxanne Bauer, Owner, and Todd Bauer, Owner. Exhibit D-1 was received into evidence.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work. .

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 14, 2016, as a care giver. She worked 11:00 p.m. to 7:00 a.m., five days per week. On October 15, 2017, the client the claimant was assigned to care for, no longer needed her services.

On October 18, 2017, the employer offered the claimant work in Clinton, Iowa, thirty minutes away. The work hours were 6:00 p.m. to 7:00 a.m. The claimant could not drive the extra miles and work the extended hours. She continues to work part-time hours for the employer for other clients.

The claimant filed for unemployment insurance benefits with an effective date of October 15, 2017. Her weekly benefit amount is \$298.00. She did not file for benefits for the two week period ending November 4, 2017.

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".

Iowa Code section 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

After October 15, 2017, the claimant continued to be employed at her regular job and earn less than she would in a regular full-time week. For any week that the claimant earns less than \$298.00 plus \$15.00, she is eligible to receive unemployment insurance benefits, so long as she is otherwise qualified.

DECISION:

The representative's November 2, 2017, decision (reference 01) is affirmed. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs