

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SONJA HUFFMAN
Claimant

APPEAL NO: 07A-UI-10474-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES INC
Employer

OC: 10-07-07 R: 04
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 5, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on November 29, 2007. The claimant participated in the hearing. Laurie Martin, District Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed with Kelly Services from August 8, 2006 to September 26, 2007. She finished her last assignment at American Honda as a full-time picker September 26, 2007, as she completed the allowed 2,080 hours. As the assignment was ending the claimant notified the employer she was having childcare problems and the employer worked with her on scheduling during the last two weeks of her employment but the claimant stated she would not be able to work until at least December 10, 2007, because she lost her childcare and her husband's schedule was constantly changing making him unable to watch their child. On October 18, 2007, the employer called the claimant and left a message stating it had several customer service positions with varying shifts available at Ivie Associates. On October 22, 2007, the employer called her again and the claimant said she did not know how long her husband would be working various shifts and unable to baby-sit their child but it would last until at least December 10, 2007. She said she was still having difficulty obtaining childcare and was applying for childcare assistance but that had been denied. She consequently refused to accept the assignment offered. On October 25, 2007, the employer talked to the claimant for the last time and the claimant said she did not have childcare. She testified during the hearing she still does not have childcare, her husband uses the only available vehicle and she is on bed rest for six months due to a high-risk pregnancy.

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 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".

The claimant does not have childcare at this time, only has access to one workable vehicle which her husband drives and has been ordered to be on bed rest for six more months. Accordingly, benefits must be denied because the claimant is not able and available as defined and required by Iowa law..

DECISION:

The November 5, 2007, reference 01, decision is affirmed. The claimant is not able to work and available for work as required by Iowa unemployment insurance law effective November 5, 2007. Benefits must be denied.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs