

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LISA S CLARK
Claimant

APPEAL NO. 12A-UI-15093-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SPENCER COMMUNITY SCHOOL DISTRICT
Employer

OC: 09/02/12
Claimant: Appellant (1)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, Lisa Clark, filed an appeal from a decision dated December 27, 2012, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on January 28, 2013. The claimant participated on her own behalf. The employer, Spencer Community School District (Spencer), participated by Human Resources Representative Jolynn Eilts.

ISSUE:

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

FINDINGS OF FACT:

Lisa Clark was employed by Spencer beginning August 16, 2010 as a substitute teacher. In January 2011 she began as a regular employee working 32.5 hours per week as a teacher associate. She continues in that capacity as of the current date.

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".

871 IAC 24.23(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant is employed as a regular employee for Spencer for the past two years. She is still employed at the same hours and wages as in her original hiring agreement and is employed for the majority of the work week with her current employer. Under the provisions of the above Administrative Code section, she is not able and available for work and is ineligible for unemployment benefits.

DECISION:

The representative's decision of December 27, 2012, reference 01, is affirmed. Lisa Clark is ineligible for unemployment benefits as she is not able and available for work.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css