

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TINA M REID
Claimant

NCS PEARSON INC
Employer

APPEAL 22A-UI-01291-ED-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 7/11/21
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Able and Available
Iowa Code § 96.1A(37) – Same Hours and Wages

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 9, 2021 (reference 02) unemployment insurance decision that found the claimant was not eligible for unemployment benefits due to her not being able and available for work. The parties were properly notified of the hearing. A telephonic hearing was held on February 1, 2022. The claimant, Tina Reid, participated personally. The employer, NCS Pearson Inc., did not participate. The administrative law judge took official notice of the claimant's unemployment insurance benefits records. No exhibits were received.

ISSUE:

The issue is whether the claimant is available 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 in 2005, as a shipping and packaging clerk on a full-time seasonal basis. The claimant usually works through the school year and is off during the summer. The employer sends out educational testing supplies. Claimant worked security processing beginning August 30, 2021 until September 10, 2021. No work was available for claimant from September 11, 2021 until October 11, 2021. Claimant worked beginning October 11, 2021 until November 12, 2021. No work was available for claimant from November 13, 2021 until December 14, 2021. Claimant did not request a leave of absence and was available for work.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(3) provides:

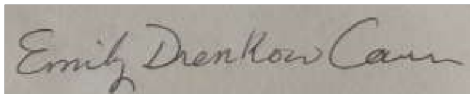
An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

In this case, claimant was available for work November 13, 2021 through December 14, 2021. Employer did not have work available for her. Therefore, she is eligible for benefits.

DECISION:

The December 9, 2021, (reference 02) unemployment insurance decision is reversed. The claimant is able to work and available for work November 13, 2021, 2021 until December 14, 2021.



Emily Drenkow Carr
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

February 24, 2022
Decision Dated and Mailed

ed/kmj