

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RACHELLA D WILLIAMS
Claimant

APPEAL NO. 11A-UI-10436-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CASEY'S MARKETING COMPANY
CASEY'S GENERAL STORES**
Employer

**OC: 04/18/10
Claimant: Appellant (1)**

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Rachella Williams filed a timely appeal from the August 5, 2011, reference 05, decision that denied benefits for the period May 1, 2011 through July 9, 2011 based on an Agency conclusion that she was not available for work during that period. A hearing was set for August 30, 2011 and Ms. Williams was properly notified. The hearing in this matter was consolidated with the hearing in Appeal Number 11A-UI-10435-JTT. The claimant was not available at the number she provided for the hearing and did not participate. Store Manager Kathy Brown represented the employer. Exhibit One was received into evidence.

ISSUE:

Whether Ms. Williams was available for work during the period of May 1, 2011 through July 9, 2011.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Rachella Williams was employed by Casey's as a part-time donut maker from February 2, 2011 and last performed work for the employer on May 1, 2011. Store Manager Kathy Brown had hired Ms. Williams to work early morning hours until 9:00 a.m. two to three days per week. Toward the end of the employment, Ms. Williams told the employer she could only work until 6:00 a.m. The employer could not accommodate this demand. Then Ms. Williams told the employer she could only work Sunday. All of this was due to a change in Ms. Williams' childcare arrangements. Ms. Williams then decided she wanted to work the overnight shift. That position was not available because Ms. Brown had given it to someone else. Then Ms. Williams told the employer her father-in-law had died and that she needed to travel to Texas. Ms. Williams told Ms. Brown she did not know how long she would be away. Ms. Brown directed Ms. Williams to contact her when she was in a position to return to the employment. Ms. Williams then did not make contact with the employer between May 1 and May 29, 2011. At that point, Ms. Brown documented a voluntary quit. Ms. Williams then telephoned Ms. Brown about returning to work. Ms. Brown directed Ms. Williams to come to the store to speak with her about that, but Ms. Williams never appeared.

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 24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Ms. Williams failed to make herself available for the hearing and thereby failed to present any evidence to support the assertion that she was available for work during the period in question. Ms. Williams did not meet the availability requirements of the law and was not eligible for benefits for the period of May 1, 2011 through July 9, 2011.

DECISION:

The Agency representative's August 5, 2011, reference 05, decision is affirmed. The claimant did not meet the availability requirements of the law and was not eligible for benefits for the period of May 1, 2011 through July 9, 2011.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css