

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRYSTLE S EVANS
Claimant

APPEAL NO. 11A-UI-00834-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

YOUNG HOUSE FAMILY SERVICES INC
Employer

OC: 12/05/10
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated January 10, 2011, reference 01, which held claimant not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on February 23, 2010. Claimant participated personally. Employer participated by Shauna Freitag, Program Director and Michael Raymond, Second Shift Supervisor. Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: claimant effective November 19, 2010 restricted her work days to Tuesday and Thursday first shift and second shift Wednesdays. Claimant had previously been available Sunday through Friday first shift and Sunday, Monday, Wednesday, Thursday and Friday second shift.

Claimant was able to work about 30 hours per week prior to November 19, 2010 and then only about eight hours per week after.

Claimant effective January 10, 2011 made herself available for work Monday through Friday first shift and Monday and Wednesday second shift. Claimant was not placed back on the schedule. Claimant had been replaced by another employee after the November restrictions. Claimant is also unavailable during spring break March 8 through March 15, 2011.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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".

Benefits are withheld effective December 5, 2010. Benefits shall be withheld effective December 5, 2010 because claimant unduly limited her hours of work due to personal reasons. Claimant is able and available for work effective January 9, 2011 because claimant is willing to work seven full shifts per week. Claimant is not able and available for work the week of March 6, 2011 due to personal reasons.

DECISION:

The decision of the representative dated January 10 2011, reference 01 is reversed. Claimant is not eligible to receive unemployment insurance benefits, effective December 5, 2010. Claimant is eligible for benefits effective January 9, 2011. Claimant is not eligible for benefits for the single week of March 6, 2011. Claimant is eligible for benefits again effective March 13, 2011.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs