

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CATHERINE MONEYSMITH
Claimant

APPEAL 19A-UI-10278-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROBERT HALF INTERNATIONAL INC
Employer

**OC: 12/08/19
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On December 27, 2019, Catherine Moneysmith (claimant) filed an appeal from the December 24, 2019 (reference 03) unemployment insurance decision that determined she was not eligible for benefits. Specifically, the decision found she was not willing to work the number of hours required in her occupation, which was unduly limiting her availability for work. Benefits were denied as of December 8, 2019.

A telephone hearing was held on January 22, 2020. The parties were properly notified of the hearing. The claimant participated personally. Robert Half International Inc. (employer) registered a number for the hearing but was not available at the time of the hearing and did not participate.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant is currently employed by employer as a temporary employee. She began working there in July 2019. She was assigned a part-time position at Scott County Community College, which ended December 8, 2019. She then again began searching for another part-time position.

Claimant's base period employer is the State of Iowa. Claimant worked there full-time until approximately July 2019. In March 2019, claimant began caring for her sister-in-law. After several months of working full-time and caring for her sister-in-law, claimant decided she was unable to do both and needed to work less. She left her full-time employment and began part-time employment with employer.

Claimant began searching for full-time work as of January 1, 2020. She began searching for full-time work at that time because it began to look like claimant would not be caring for her sister-in-law much longer, and so would be available for full-time employment again.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the December 24, 2019 (reference 03) decision is MODIFIED in favor of appellant. The administrative law judge concludes that the claimant is able to work and available for work effective January 1, 2020.

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".

Iowa Code section 96.3(6) provides:

6. *Part-time workers.*

a. As used in this subsection the term "part-time worker" means an individual whose normal work is in an occupation in which the individual's services are not required for the customary scheduled full-time hours prevailing in the establishment in which the individual is employed, or who, owing to personal circumstances, does not customarily work the customary scheduled full-time hours prevailing in the establishment in which the individual is employed.

b. The director shall prescribe fair and reasonable general rules applicable to part-time workers, for determining their full-time weekly wage, and the total wages in employment by employers required to qualify such workers for benefits. An individual is a part-time worker if a majority of the weeks of work in such individual's base period includes part-time work. Part-time workers are not required to be available for, seek, or accept full-time employment.

The administrative law judge understands why claimant left full-time employment and subsequently sought only part-time employment. However, because claimant's base period employment was full-time, she is required to seek full-time employment to be considered able to and available for work and in turn to be eligible for benefits. Because claimant was not seeking full-time employment prior to January 1, 2020, she is not available for work prior and eligible for benefits prior to that date.

DECISION:

The December 24, 2019, (reference 03) unemployment insurance decision is MODIFIED in favor of appellant. The claimant is able to work and available for work effective January 1, 2020. Benefits are allowed from that date, provided she is otherwise eligible.

Andrew B. Duffelmeyer
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Decision Dated and Mailed

abd/scn