****

### APPEAL TRIBUNAL DECISION

**Docket number:** 20 0830 **Hearing date:** July 28, 2020

**CLAIMANT:**

IVA R KAROLY-LISTER

**CLAIMANT APPEARANCES: DETS APPEARANCES:**

Iva Karoly-Lister None

#### CASE HISTORY

The claimant untimely appealed a May 12, 2020 determination which denied benefits under AS 23.20.378. The claimant attempted to contact her claim center but was unable to get through to a representative until late June 2020 when a representative called her back. At that time the claimant filed an appeal.

This Tribunal holds the claimant filed an untimely appeal but for a reason beyond her control. The appeal is accepted.

The issue before the Appeal Tribunal is whether the claimant is available for work while relocating. Her normal days of work are flexible.

#### FINDINGS OF FACT

The claimant works as a teaching assistant for the University of Alaska. She works from home answering emails about class and grading papers. School for her was officially over May 13, 2020.

On May 6, 2020 the claimant returned to Fairbanks, Alaska, her home, from Anchorage, Alaska. She drove straight through. She was available in both locations. She changed her address with the Division of Employment and Training Services on May 10, 2020. She is seeking fulltime work.

#### PROVISIONS OF LAW

**AS 23.20.378 provides, in part:**

 (a) An insured worker is entitled to receive waiting-week credit or benefits for a week of unemployment if for that week the insured worker is able to work and available for suitable work….

**8 AAC 85.350 provides:**

 (a) A claimant is considered able to work if the claimant is physically and mentally capable of performing work under the usual conditions of employment in the claimant's principal occupation or other occupations for which the claimant is reasonably fitted by training and experience.

 (b) A claimant is considered available for suitable work for a week if the claimant

 (1) registers for work as required under 8 AAC 85.351;

 (2) makes independent efforts to find work as directed under 8 AAC 85.352 and 8 AAC 85.355;

 (3) meets the requirements of 8 AAC 85.353 during periods of travel;

 (4) meets the requirements of 8 AAC 85.356 while in training;

 (5) is willing to accept and perform suitable work which the claimant does not have good cause to refuse;

 (6) is available, for at least five working days in the week to respond promptly to an offer of suitable work; and

 (7) is available for a substantial amount of full‑time employment.

#### CONCLUSION

Under 8 AAC 85.350, a claimant must be available for work at least five working days of their customary workweek. The claimant’s work week is flexible. Excluding the day she traveled to relocate, she was still available for work for six days of the week. The claimant is seeking fulltime work and has not precluded any employment opportunities. Her relocation did not interfere with her availability.

#### DECISION

The determination issued on May 12, 2020 is **REVERSED**. Benefits are **ALLOWED** beginning with the week ending May 9, 2020, if the claimant is otherwise eligible.

#### APPEAL RIGHTS

This decision is final unless an appeal is filed to the Commissioner of Labor and Workforce Development within **30 days** after the decision is mailed to each party. The appeal period may be extended only if the appeal is delayed for circumstances beyond the party's control. A statement of appeal rights and procedures is enclosed.

Dated and mailed on July 29, 2020.

 Michael Swanson,

 Appeals Officer