

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LACEY B ORE
Claimant

GENESIS DEVELOPMENT
Employer

APPEAL 18A-UI-00719-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/03/17
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 8, 2018, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was not able to work. The parties were properly notified of the hearing. A telephone hearing was held on February 8, 2018. The claimant, Lacey Ore, participated and was represented by Jonathan Law, Attorney at Law. The employer, Genesis Development, did not register a telephone number at which to be reached and did not participate in the hearing.

ISSUE:

Is the claimant able to work and available for work effective December 3, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time, most recently as a med manager and community support staff, from September 2006 until December 22, 2017, when she quit. Beginning on December 7, claimant was placed under a doctor's care and was on leave from work. Claimant was excused from work from December 7 through December 30, 2017. Claimant's doctor released her to return to work effective December 31, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not able to work for the four weeks ending December 30, 2017. Thereafter, claimant was able to and available for work.

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".

Iowa Admin. Code r. 871-24.23(35) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

In this case, claimant testified that she was on medical leave and under her doctor's care from December 7 through December 30. She was not able to work at that time. Therefore, benefits are denied for the four weeks ending December 30, 2017. Claimant was released to return to work effective December 31, 2017. Benefits are allowed from that point forward, provided claimant was otherwise eligible.

DECISION:

The January 8, 2018, (reference 01) unemployment insurance decision is modified in favor of claimant/appellant. Claimant was not able to work for the four weeks ending December 30, 2017. Thereafter, claimant was able to work. Benefits are allowed for the week ending January 6, 2018, and for all following weeks, provided claimant is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn