

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACQUELINE L RONNFELDT
Claimant

APPEAL NO. 11O-UI-05484-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AGRI STAR MEAT & POULTRY
Employer

OC: 01/31/10
Claimant: Appellant (2R)

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Jacqueline L. Ronnfeldt filed a timely appeal from an unemployment insurance decision dated February 11, 2011, reference 04, that denied benefits to her upon a finding that she was not medically able to work. Before a hearing could be held, however, the Agency issued a second fact-finding decision on February 16, 2011, reference 05, that granted the relief requested by the claimant. Based upon the subsequent fact-finding decision, this administrative law judge issued a decision reversing the February 11, 2011 fact-finding decision. Although the employer, Agri Star Meat & Poultry, did not file an appeal from the February 16, 2011 fact-finding decision, it filed an appeal from the administrative law judge's decision. In an order dated April 22, 2011, the Employment Appeal Board remanded the matter for further evidence to be taken concerning the appeal from the February 11, 2011 decision. With the consent of the parties, a telephone hearing was held May 20, 2011 with Ms. Ronnfeldt participating. Laura Althaus participated for the employer.

ISSUE:

Is the claimant medically able to work effective December 19, 2010?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: On December 19, 2010 Jacqueline Ronnfeldt presented Agri Star Meat & Poultry with an unrestricted release from her doctor to return to work. Diane GUERRERO declined to return Ms. Ronnfeldt to work because she feared that Ms. Ronnfeldt might suffer dizzy spells. Ms. Ronnfeldt was not experiencing any, but she did carry a prescription medicine with her in the event of a bout with vertigo.

The company terminated Ms. Ronnfeldt's employment on March 31, 2010.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant is medically able to work as of December 19, 2010. It does.

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".

The employer acknowledged that Ms. Ronnfeldt had presented an unrestricted release to return to work. Ms. Althaus had no first-hand knowledge of the events of December 19, 2010. Ms. Guerrero was not called to testify. Ms. Ronnfeldt's sworn testimony on the issue of her vertigo medication is more credible than the employer's hearsay evidence, Ms. Garrerro's written statement.

The issue of the unemployment insurance consequences of the claimant's subsequent separation from employment is remanded to the Unemployment Insurance Services Division.

DECISION:

The unemployment insurance decision dated February 11, 2011, reference 04, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible. The separation issue is remanded to the Unemployment Insurance Services Division.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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