

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIM ARNOLD
Claimant

APPEAL NO. 06A-UI-11823-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

MINNESOTA MINING & MFG CO
Employer

**OC: 11-05-06 R: 01
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 29, 2006, reference 01, decision that denied benefits. After due notice was issued, a hearing was scheduled by telephone conference call before Administrative Law Judge Julie Elder on December 27, 2006. The claimant provided a phone number prior to the hearing but was not available at that number when called for the hearing and did not participate or request a postponement of the hearing as required by the hearing notice. The employer did not respond to the hearing notice and no hearing was held in this matter.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was told by her physician she could not return to work at Minnesota Mining & Manufacturing but was released to return to work in a “clean environment” on October 10, 2006.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work

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 claimant was released to return to work in a clean environment October 10, 2006. Accordingly, benefits are allowed.

DECISION:

The November 29, 2006, reference 01, decision is reversed. The claimant is able to work and available for work effective October 10, 2006. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css