

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIM K KOSTER
Claimant

APPEAL NO. 11A-UI-07148-PT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL KITCHEN SOLUTIONS INC
Employer

OC: 09/05/10
Claimant: Appellant (1)

Section 96.4-3 — Able and Available for Work

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 26, 2011, reference 03, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 22, 2011. Claimant participated. Employer participated by Nancy Troe, human resources generalist.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant is employed as a production team member. The last day she worked was April 11, 2011. At that time she was restricted from working around machinery and driving until she had been seizure free for six months. The employer does not have work for claimant within those restrictions. The employer at this point is waiting for claimant to have her restrictions lifted so that she may return to work. Claimant is not earnestly and actively searching for work. Claimant is not available for work.

REASONING AND CONCLUSIONS OF LAW:

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".

Claimant is not able to work for the employer with her current restrictions. Claimant did not establish on this record that she is available for work nor did she indicate that she was earnestly and actively looking for work. Benefits are denied effective April 24, 2011.

DECISION:

The May 26, 2011, reference 03, decision is affirmed. Benefits are denied effective April 24, 2011.

Ron Pohlman
Administrative Law Judge

Decision Dated and Mailed

rrp/pjs