

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LINDA SCOTT
Claimant

APPEAL 19A-UI-06059-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MIDWEST JANITORIAL SERVICE INC
Employer

**OC: 07/07/19
Claimant: Appellant (1R)**

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/appellant, Linda Scott, filed an appeal from the July 25, 2019 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 22, 2019. The hearing was held jointly with Appeal 19A-UI-06060-JC-T. The claimant participated. The employer Midwest Janitorial Service Inc., participated through Sarah Yaley.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant able to work and available for work effective July 7, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Most recently, the claimant worked as a custodian for Midwest Janitorial Service Inc. She has been under doctor’s care since January 2019. Her next doctor’s appointment is September 4, 2019 in which she hopes to receive a release to return to work.

The claimant is currently listed as a Group code “3” which represents she is temporarily unemployed. The claimant permanently separated from employment with this employer on June 28, 2019 and therefore is no longer temporarily unemployed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able to and available for work.

For an individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The claimant has the burden to show he is able to work, available for work, and earnestly and actively seeking work. The unemployment insurance rules require that an individual be physically and mentally able to work in some full time gainful employment, not necessarily in the individual's customary occupation, but a job which is engaged in by others as a means of livelihood. 871 IAC 24.22(1). The rules also provide that an individual is disqualified for being unavailable to work if an individual has a medical report stating the individual is unable to work. 871 IAC 24.23(6).

In this case, the evidence fails to establish the claimant is able to and available for work as defined by the unemployment insurance law. The claimant is currently under medical care and has failed to provide medical documentation that establishes her ability to perform work, with or without restrictions. Accordingly, the administrative law judge concludes the claimant does not meet the requirements of being able to and available for work.

Benefits are withheld until such time as the claimant obtains a medical release to return to some type of work of which she is capable of performing given any medical restrictions. If the circumstances change and the claimant believes the disqualification can be removed, she should contact Iowa Workforce Development.

REMAND: The issue of whether the claimant's group code needs to be changed (due to her not being temporarily unemployed) and whether she must make job search contacts is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The July 25, 2019 (reference 01) initial decision is affirmed. The claimant is not able to and available for work. Benefits are denied until such time as the claimant obtains a medical release to return to some type of work of which she is capable of performing given any medical restrictions. If the circumstances change and the claimant believes the disqualification can be removed, she should contact Iowa Workforce Development.

REMAND: The issue of whether the claimant's group code needs to be changed (due to her not being temporarily unemployed) and whether she must make job search contacts is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn