

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**HAYDEE LAJES BENITEZ**

Claimant

**APPEAL 19A-UI-04182-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE HILLSHIRE BRANDS COMPANY**

Employer

**OC: 04/21/19**

**Claimant: Appellant (2R)**

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:**

On May 20, 2019, the claimant filed an appeal from the May 13, 2019 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was not able to work due to injury. The parties were properly notified of the hearing. A telephonic hearing was held on June 27, 2019. The claimant, Haydee Lajes Benitez, participated in the hearing. The employer, The Hillshire Brands Company, did not register a telephone number at which to be reached and did not participate in the hearing. Spanish/English interpreter Somedad (ID number 10650) from CTS Language Link provided interpretation services for the hearing. Claimant's Exhibit A was received and admitted into the record without objection. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Is the claimant able to work and available for work effective April 21, 2019?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed with The Hillshire Brands Company full-time, most recently as a production line, from July 24, 2017, until May 29, 2019, when she separated from employment. This separation has not yet been the subject of a fact-finding interview.

Claimant last reported to work on April 1, 2019. That day, she went to the doctor for care related to a work-related injury to her hand. When claimant returned from the doctor, the nurse and HR told her that she should go home. Claimant was told she would be sent home with compensation benefits until her next doctor's appointment. Claimant received worker's compensation benefits for only one week and then they stopped.

Claimant believes the employer sent her home on April 1, 2019, because she was given work restrictions. Specifically, claimant was not allowed to use her hand that was affected by the

injury. Claimant told the employer she could perform her job with her other hand, but they would not let her.

Claimant received a full release from the doctor on May 29, 2019. (Exhibit A) That same day, she was separated from employment.

Claimant has been actively looking for work since she separated from employment. She has tried looking for jobs where other Latino people in her community work. Claimant specifically recalls that she has applied for cashier jobs. Claimant has applied for at least two jobs each week since her separation. Claimant believes she can perform any work, as she no longer has restrictions.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant is able to and available for work. Benefits are allowed, provided she is otherwise eligible.

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.

Iowa Admin. Code r. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

In this case, claimant began filing for unemployment insurance benefits while still employed with the employer. She was not working, as the employer refused to accommodate her work-related injury. Additionally, the administrative record shows that claimant did not begin filing for unemployment insurance benefits until at least a week after she received her only week of worker's compensation benefits. The administrative law judge concludes claimant was physically able to work with restrictions from April 21, 2019, through June 1, 2019.

Next, claimant filed for unemployment insurance benefits after her separation from employment. At that point, she must only demonstrate that she is physically able to work in some gainful occupation. Claimant demonstrated to the administrative law judge that she is capable of working as a cashier and she is actively seeking cashier jobs. Therefore, the administrative law judge concludes claimant was physically able to work beginning June 2, 2019. Benefits are allowed.

This matter will be remanded for further investigation of claimant's separation from employment.

**DECISION:**

The May 13, 2019, (reference 01) unemployment insurance decision is reversed. Claimant has established she was able to work beginning on her original claim date of April 21, 2019. Benefits are allowed, provided claimant is otherwise eligible.

**REMAND:**

This matter is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and decision on claimant's separation from this employer.

---

Elizabeth A. Johnson  
Administrative Law Judge

---

Decision Dated and Mailed

lj/scn