

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHANAN S OTT**  
Claimant

**APPEAL NO: 15A-UI-05612-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**VISIONS HAIR STUDIO**  
Employer

**OC: 04/05/15**  
**Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Shanan Ott (claimant) appealed a representative's May 5, 2015, decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Visions Hair Studio (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 23, 2015. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The claimant offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the 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 that: The claimant was hired on October 20, 2014, as a part-time stylist. At the time the claimant was hired, the employer promised she would work two days per week for five hours each day. The employer understood the claimant had a back injury from more than a year prior to her hire date. The employer did not have a handbook. It issued the claimant one verbal warning for tardiness during the claimant's employment.

As time progressed the claimant worked four days per week. On Tuesdays she worked nine or ten hours and this hurt the claimant's back. She talked to the employer about sharing the hours with her co-worker but the employer refused. The employer told the claimant she hired a gal from J. C. Penney to replace her. The woman could not start immediately and so the claimant continued to work. On February 13, 2015, the employer told the claimant her replacement would start on February 17, 2015. The claimant offered to train her and the employer accepted. The claimant's last day was February 17, 2015.

The employer rented the claimant a chair for \$10.00 per hour one day per week from February 17 through March 28, 2015. The claimant has an undated doctor's note that limits her

work to three five-hour shifts per week. The claimant filed for unemployment insurance benefits with an effective date of April 5, 2015.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is able for work.

Iowa Admin. Code r. 871-24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

When an employee is medically unable to perform work due to a condition, she is considered to be unavailable for work. The claimant is able to work the major portion of the work week for this employer. She was hired to work two days per week and the claimant can work three days per week. She is considered to be able to work with this employer. The claimant is qualified to receive unemployment insurance benefits.

**DECISION:**

The representative's May 5, 2015, decision (reference 02) is reversed. The claimant is able and available for work with this employer and qualified to receive unemployment insurance benefits.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/css