

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**KARA ROBERTS**  
Claimant

**TOYOTA MOTOR CREDIT CORP**  
Employer

**APPEAL NO. 19A-UI-09544-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/03/19  
Claimant: Appellant (2R)**

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Iowa Code § 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated November 27, 2019 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on December 31, 2019. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

**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 worked for employer full time as a collections representative. Claimant has suffered through depression, anxiety and other medical issues that affected claimant's ability to consistently attend work.

Claimant received doctor's accommodations early in 2019 and again in October as claimant had attendance issues. The accommodation allowed her to miss up to 24 hours a month because of depression / anxiety issues. Claimant interpreted this to mean three days when she in fact worked 8 ½ hour shifts. Employer saw claimant's actions in violation of attendance policies and gave claimant a final written warning.

Claimant then got a new accommodation on October 29, 2019 allowing for three days a month to be missed for anxiety-related issues. Claimant went on to miss the next three days of work. Employer terminated claimant explaining that her accommodation request had not been approved when she missed multiple days after a final warning.

Subsequent to her termination, claimant has remained able and available for work. On December 3, 2019, claimant went to her doctor again, and her doctor prepared a new document highlighting claimant's current mental status and ability to work full time. Claimant has been consistently searching for work.

## REASONING AND CONCLUSIONS OF LAW:

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".

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.

Inasmuch as the illness was not work-related, but the treating physician has released the claimant to return to work, the claimant has established the ability to work. Benefits shall be allowed effective November 3, 2019 if claimant satisfies all other eligibility requirements. This matter will be remanded to the fact finder on the issue of job separation and whether the separation is disqualifying.

**DECISION:**

The decision of the representative dated November 27, 2019, reference 01 is reversed and remanded to the fact finder on the separation issue. Claimant is eligible to receive unemployment insurance benefits, effective November 3, 2019, provided claimant meets all other eligibility requirements.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

bab/scn