

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KAREN R WALTER**  
Claimant

**APPEAL NO. 13A-UI-08777-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ARAMARK CAMPUS LLC**  
Employer

**OC: 05/26/13**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated July 23, 2013, reference 01, which denied unemployment insurance benefits effective May 26, 2013 finding the claimant was not able to work due to illness. After due notice was provided, a hearing was held on September 23, 2013. Claimant participated. The employer participated by Ms. Susan DuBois, Director of Dining Services.

**ISSUE:**

The issue is whether the claimant is able and available for work within the meaning of the Employment Security Law.

**FINDINGS OF FACT:**

Karen Walter began employment with Aramark Campus, L.L.C. on September 18, 1998 and began employment as a full-time cashier. Ms. Walter is paid by the hour. The claimant's last day of work was April 16, 2013.

Ms. Walter became ill with a serious heart condition on or about April 16, 2013 and was determined by her doctor as being not able to work. The doctor statement indicating that Ms. Walter was not able to work due to illness was provided to the employer. The claimant called in each day as required notifying the company that she was ill. Ms. Walter began an approved medical leave of absence on August 26, 2013 pending heart surgery. Ms. Walter continues to be maintained on the company's employment rolls from April 16, 2013, pending her return to work. The claimant has not returned to work because she was not medically able to do so.

**REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes that the claimant is able to work. It does not.

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".

An otherwise eligible claimant is eligible to receive benefits with respect to any week only if the evidence indicates that the individual is able to work, is available for work, and is earnestly and actively seeking work. Iowa Code section 96.4(3) and 871 IAC 24.22. The claimant bears the burden of establishing that the claimant meets the above requirements. 871 IAC 24.22.

To satisfy the ableness requirement, 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. 871 IAC 24.22(1). With regard to illness or injury, 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, that is, the statement is legally sufficient to establish the claimant's physical ability unless disproved by other evidence. 871 IAC 24.22(1)(a).

Inasmuch as the evidence in the record establishes that Ms. Walter has been determined by her doctor as not able to work, she does not satisfy the ableness requirements of the Employment Security Law and is ineligible to receive unemployment insurance benefits because she is not able and available for work as required by the law.

**DECISION:**

The fact-finder's decision dated July 23, 2013, reference 01, is affirmed. Benefits are denied effective May 26, 2013. Claimant is not able to work due to illness.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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