

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SHALANE M WASSON**  
Claimant

**SWIFT PORK COMPANY**  
Employer

**APPEAL 17R-UI-06164-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/12/17**  
**Claimant: Appellant (1)**

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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 filed an appeal from the March 29, 2017 (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant was not able to work due to illness. The parties were properly notified of the hearing. A telephone hearing was held on June 30, 2017. The claimant, Shalane M. Wasson, participated. The employer, Swift Pork Company, participated through Kristy Knapp, Human Resources Coordinator.

**ISSUE:**

Is the claimant able to work and available for work effective March 12, 2017?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a loin bone employee, from July 21, 2016, until March 20, 2017, when she quit. Claimant testified that at the time she left her employment, she was not physically able to work. Claimant suffers from a lifelong kidney condition, and she recently underwent a kidney transplant. Claimant remains unable to work based on this condition. She testified that there was a brief period of time when she was physically able to work part-time, provided that work involved sitting down.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant is not physically able to work. Benefits are withheld.

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. 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.

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.

Here, claimant testified that she was experiencing medical issues following her kidney transplant. Her medical issue was not work-related. She was not physically able to 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 her education, training and work experience, and any medical restrictions. At that point, there must be an evaluation of whether employment, with reasonable accommodation if appropriate, is available.

**DECISION:**

The March 29, 2017 (reference 02) unemployment insurance decision is affirmed. Claimant is not able to work and available for work effective March 12, 2017. Benefits are withheld until such time as the claimant obtains a full medical release to return to some type of work which she is capable of performing.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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