

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEBORAH J COLWELL**  
Claimant

**APPEAL NO 07A-UI-04604-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/19/06 R: 03  
Claimant: Appellant (2R)**

Iowa Code § 96.4(3) - Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the April 27, 2007, reference 03, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on May 22, 2007. Claimant participated and was represented by William Nicholson, Attorney at Law.

**ISSUE:**

The issue is whether claimant is able to and available for work.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full time inspector, assembler and floater for Whirlpool until November 19, 2006, when she was temporarily laid off due to a lack of work. On August 23, 2006, claimant's right shoulder was injured at work when she was struck by a forklift. In spite of medical restrictions, she was able to perform her regular duties from August 24 to November 19, 2006. She was released to work without restrictions on April 1, 2007. Employer called her back to work as of May 21, 2007 but she declined, as she has an office job arranged with Sedona Staffing, but that job will not begin until June 18, 2007.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work

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".

Since claimant was able to work her regular duties in spite of her medical restrictions but was laid off due to a lack of work, claimant has established her availability for and ability to work as of November 19, 2006.

**DECISION:**

The representative's decision dated April 27, 2007, reference 03, is reversed. The claimant is able to work and available for work effective November 19, 2006. Benefits are allowed, provided the claimant is otherwise eligible.

**REMAND:**

The May 21, 2007 recall to work refusal issue delineated in the findings of fact is remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw