

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANELLE G SPARKS
Claimant

APPEAL NO. 11A-UI-00867-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

JOYCE VRIEZELAAR
MIDLAND MFG CO INC
Employer

OC: 11/28/10
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated January 12, 2011, reference 01, which held claimant not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on February 23, 2011. Employer participated by Joyce Vriezelaar. Claimant 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: The claimant was unable to perform her normal duties due to medical reasons from a pregnancy and has not worked for the employer since September 13, 2010. The employer has placed the claimant in inactive status until she returns with a medical release.

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".

Inasmuch as the pregnancy was not work related and the treating physician has not released the claimant to return to work, the claimant has not established the ability to work. Benefits are withheld until such time as the claimant obtains a full medical release to return to work.

DECISION:

The decision of the representative dated January 12, 2011, reference 01, is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective November 28, 2010.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/css