

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SOLANGE MWIZA**  
Claimant

**SWIFT PORK COMPANY**  
Employer

**APPEAL NO: 19A-UI-07506-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/12/19  
Claimant: Respondent (1)**

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Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Swift Pork Company (employer) appealed a representative's September 13, 2019, decision (reference 04) that concluded Solange Mwiza (claimant) was available for work and medically able for work as of September 15, 2019. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 15, 2019. The claimant participated personally through Interpreter Aine Wendo. The employer participated by Vicky Cervantes, Human Resource Manager.

The administrative law judge took official notice of the administrative record.

**ISSUE:**

The issue is whether the 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 that: The claimant worked for the employer from May 1, 2017, to March 2, 2019, as full-time general laborer. The claimant suffered an injury at work on December 2, 2018.

The claimant saw her physician on September 12, 2019. The physician released her to return to work without restrictions on September 13, 2019.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is able and available for work as of September 15, 2019.

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.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When an employee is ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant was released to return to work without restrictions by her physician. She is considered to be available for work because her physician stated she was able and available for work. The claimant is not disqualified from receiving unemployment insurance benefits as of September 15, 2019.

**DECISION:**

The representative's September 13, 2019, decision (reference 04) is affirmed. The claimant is not disqualified from receiving unemployment insurance benefits because she is available for work. Benefits are allowed as of September 15, 2019, provided claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs