

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NANCY WERNIMONT**  
Claimant

**APPEAL NO: 19A-UI-05195-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ACCESSORIZE ME LLC**  
Employer

**OC: 06/02/19**  
**Claimant: Appellant (2-R)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 21, 2019, reference 01, decision that determined the claimant was not able and available for work and denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 7, 2019. The claimant participated in the hearing with Attorney Emilie Roth Richardson. Jennifer Klaas, Owner, participated in the hearing on behalf of the employer. Claimant's Exhibit A was admitted into evidence.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a part-time packaging and sales employee at Accessorize Me in 2009. She is no longer employed there as she had carpal tunnel surgery May 3, 2019, and can no longer perform the repetitive motions required of jewelry packaging, which was the major portion of her job. The claimant can perform other types of work for other employers. She is considered able and available for work.

The issue of the claimant's separation from this employer has not yet been heard or adjudicated by the Benefits Bureau.

**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".

While the claimant cannot perform the job duties of her previous employment, she is no longer employed at Accessorize Me. She is able to perform tasks that do not require the repetitive use of her hands. Accordingly, the claimant is considered able and available for work and benefits must be allowed.

The issue of the claimant's separation from this employer has not been heard or adjudicated by the Benefits Bureau. That issue is remanded to the Benefits Bureau for an initial interview and adjudication.

**DECISION:**

The June 21, 2019, reference 01, decision is reversed. The claimant is able to work and available for work effective the week ending June 2, 2019. Benefits are allowed effective the week ending June 8, 2019, provided the claimant is otherwise eligible. The issue of the claimant's separation from this employer is remanded to the Benefits Bureau.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn