

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RONISHA R LIDDELL**  
Claimant

**APPEAL NO. 15A-UI-05655-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BETTENDORF HEALTHCARE  
MANAGEMENT**  
Employer

**OC: 03/29/15  
Claimant: Appellant (2)**

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours  
Iowa Code § 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated May 11, 2015, reference 03, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on June 23, 2015. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

**ISSUES:**

Whether claimant is still employed at the same hours and wages and partially unemployed?

Whether claimant is able and available for work?

**FINDINGS OF FACT:**

As claimant was the only participant in the hearing, all findings of fact are gleaned from claimant's testimony. Claimant was pregnant. Claimant received a weight restriction from her doctor limiting her to lifting 25 pounds on April 22, 2015. As a part of her part-time employment, claimant often has to aid patients in getting in and out of bed, and such actions often involve lifting more than 25 pounds. The claimant stated that there are many duties and jobs available for her that would have allowed her to continue working with her work restriction, but employer chose to not have claimant continue to work.

Claimant did go on maternity leave in this matter on May 20, 2015.

**REASONING AND CONCLUSIONS OF LAW:**

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.

Inasmuch as the pregnancy was not work-related and the treating physician had released the claimant to return to work, the claimant has established the ability to work. Benefits shall be allowed effective April 22, 2015 through May 20, 2015.

**DECISION:**

The May 11, 2015, reference 03, decision is reversed. Benefits are allowed for the period between April 22, 2015 and May 20, 2015, provided claimant is otherwise eligible.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

bab/pjs