

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELANIE FRISK

Claimant

APPEAL NO: 13A-UI-05493-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC

Employer

OC: 01/27/13

Claimant: Appellant (1)

Iowa Code § 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

Melanie Frisk (claimant) appealed an unemployment insurance decision dated May 2, 2013, reference 02, which held that she was not eligible for unemployment insurance benefits because she was not able to work from January 27, 2013 through May 25, 2013. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 25, 2013. The claimant participated in the hearing. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted, and therefore, did not participate.

ISSUE:

The issue is whether the claimant is able and available to 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 was not available to work from January 27, 2013 through May 25, 2013 because she was taking care of her gravely ill son.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant is able and available for work. In order for an individual to be eligible to receive unemployment insurance benefits, the evidence in the record must establish that she is able to work, available for work, and earnestly and actively seeking work. See Iowa Code § 96.4(3) and 871 IAC 24.22.

The claimant has the burden of proof in establishing her ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). The claimant admitted she was not available to work from January 27, 2013 through May 25, 2013 because she was taking care of her son. While her actions are necessary for her family, she is not entitled to receive unemployment insurance benefits if she cannot meet the basic eligibility requirements. Benefits are denied accordingly.

DECISION:

The unemployment insurance decision dated May 2, 2013, reference 02, is affirmed. The claimant does not meet the availability requirements from January 27, 2013 through May 25, 2013 and benefits are denied.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css