

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KRISTINE M LAWSON
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL 15A-UI-09352-H2T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/12/15
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 10, 2015, (reference 04) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 9, 2015. Claimant participated. Employer participated through Sarah C. Fiedler, Human Resources Generalist.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant suffered a non-work related foot injury and now has work restrictions that limit her to a job where she can sit. The claimant's last job for Team Staffing had her working at the Weingard plant where she was required to stand on her feet all day long. Within the last few years the claimant has worked at a sit down only job as a transcriptionist. There is work she could do that would comply with her current work restrictions.

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".

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.

The claimant has work restrictions that require she perform only work where she can sit down. She has a skill set and a history of performing similar work. Under these circumstances she is considered able to and available for work. Benefits are allowed, **provided the claimant is otherwise eligible.**

DECISION:

The August 10, 2015, reference 004, decision is reversed. The claimant is able to work and available for work effective July 12, 2015. Benefits are allowed, **provided the claimant is otherwise eligible.**

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs