

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARIA HAMADALLA
Claimant

APPEAL NO. 21A-UI-22302-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BARR-NUNN TRANSPORTATION INC
Employer

OC: 08/29/21
Claimant: Appellant (1)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 27, 2021 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on November 29, 2021. Claimant participated personally. Employer participated through Tracy Murphy. Employer's exhibits 1-3 were admitted into evidence.

ISSUES:

Whether 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: Claimant worked as a full time truck driver for employer. Her last day of actual work was June 6, 2021. After that date, claimant was placed on FMLA leave for a time period through August 30, 2021. At the end of this period, claimant was not able to return to work, and employer terminated claimant's employment.

Claimant was supposed to have a doctor's visit on September 29, 2021 to determine when or if she could return to work in any capacity or return to work as a truck driver. Claimant did not maintain any insurance after her job separation and did not go to her doctor's appointment. To date, claimant has not been released to return to work in any capacity. Claimant stated that as of the middle of November, she started working at other employment that did not involve driving a truck.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

Iowa Admin. Code r. 871-24.23(35) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Documents forwarded from employer indicate lack of blood flow to extremities and obesity and hypertension and anxiety. There is no direct correlation stating that driving a truck caused the medical problems as they are not injuries. Inasmuch as the illness was not work-related and the treating physician has not released the claimant to return to work, the claimant has not established the ability to work. Benefits are withheld until such time as the claimant obtains a full medical release to return to work.

DECISION:

The decision of the representative dated September 27, 2021, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective August 29, 2021.



Blair A. Bennett
Administrative Law Judge

January 4, 2022
Decision Dated and Mailed

bab/mh