

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VICKY J SKUBAL**  
Claimant

**APPEAL NO. 09A-UI-00383-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEMPS NOW HEARTLAND**  
Employer

**OC: 11/30/08 R: 04**  
**Claimant: Respondent (1)**

Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

Temps Now Heartland filed an appeal from a representative's decision dated January 6, 2009, reference 03, which held that Vicky Skubal satisfied the availability requirements of the law effective November 30, 2008. After due notice was issued, a hearing was held by telephone on February 18, 2009. Ms. Skubal participated personally. The employer participated by Shae Munson, Senior Recruiter, and was represented by Miriam Aruguete of Personnel Planners, Inc.

**ISSUE:**

At issue in this matter is whether Ms. Skubal has satisfied the availability requirements of the law since filing her claim effective November 30, 2008.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Skubal began working for Temps Now Heartland on September 15, 2008 and was last assigned to work for R R Donnelly. She sustained a work-related injury on January 29, 2009 and was seen by a company doctor. She was released to perform light-duty work but none has been provided to her.

Ms. Skubal has limited ability to bend and twist. Her doctor has advised that she not perform any overhead work and that she avoid lifting more than ten pounds. She is a high school graduate with three months of training in providing home care. She can sit for prolonged periods but can only stand comfortably for approximately two hours. Ms. Skubal retains the ability to work in light industrial work or in providing home care. She believes she could work as a telemarketer or cashier.

**REASONING AND CONCLUSIONS OF LAW:**

Ms. Skubal is currently unemployed because Temps Now Heartland does not have work she can do because of restrictions caused by a work-related injury. In order to satisfy the availability requirements of Iowa Code section 96.4(3), an individual must be able to engage in some work

that is engaged in by others as a means of livelihood. The individual does not have to be physically able to perform her normal job. See 871 IAC 24.22(1).

The administrative law judge believes Ms. Skubal has the residual functional capacity to perform some work activity. She can perform sedentary work that does not require extensive bending and twisting. Such work might include telemarketing or light bench assembly. She could work in security where she would have the ability to sit and stand at will. Because Ms. Skubal is not precluded from all work activity, she is able to and available for work within the meaning of the law. Accordingly, benefits are allowed.

**DECISION:**

The representative's decision dated January 6, 2009, reference 03, is hereby affirmed. Ms. Skubal is able to work as required by law. Benefits are allowed, provided she satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw