

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANDREA L LEX
Claimant

APPEAL NO: 14A-UI-01476-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/12/14

Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Andrea L. Lex (claimant) appealed a representative's February 7, 2014 decision (reference 05) that concluded she was not qualified to receive unemployment insurance benefits because of not being able and available for work effective the week beginning February 2, 2014. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 28, 2014. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

FINDINGS OF FACT:

The claimant established an unemployment insurance benefit year effective January 12, 2014 after a separation from employment. On January 30 the claimant broke a finger on her right hand in an accident at home, necessitating the wearing of a splint on that finger. The claimant is right handed, but the claimant was still able to perform the type of positions for which the claimant normally seeks employment, community, public, or media relations. She is still able to sufficiently use a computer to perform any necessary duties.

REASONING AND CONCLUSIONS OF LAW:

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, be available for work, and be earnestly and actively seeking work. Iowa Code § 96.4-3. To be found able to work, "[a]n 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." *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); 871 IAC 24.22(1). The claimant has

demonstrated that she is able to work in some gainful employment. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's February 7, 2014 decision (reference 05) is reversed. The claimant is able to work and available for work. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css