

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINE MOULDS
Claimant

APPEAL NO: 15A-UI-08437-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/04/15
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 15, 2015, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 18, 2015. The claimant participated in the hearing with her witness/husband Michael Moulds and was represented by Attorney E.J. Flynn. Claimant's Exhibits A and B were admitted into evidence.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time laundry department manager for East Ten from April 14, 1996 through January 1, 2015.

In June 2014 the claimant fell at home and fractured her pelvis. Her short-term disability ran out at the beginning of January 2015 and the claimant was given the option of remaining on the employer's books as an employee whereby the employer would hold a job for her and pay her insurance for two years or filing for unemployment. The claimant chose to file for unemployment benefits.

While the claimant has some restrictions still in place, such as no lifting or bending or being on her feet for longer than three hours at one time without a short break, and is not able to perform her previous job, she has been applying for other jobs every week. She is able to work as a cashier, an office worker, and a flower store employee, among other potential occupations, she is capable of performing with her 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 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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 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.

While the claimant is not able to perform the job duties of her previous job, she is able and available to perform many other jobs and is applying for and seeking other employment. Accordingly, the claimant is considered able and available for work. Benefits are allowed.

DECISION:

The July 15, 2015, reference 02, decision is reversed. The claimant is able to work and available for work effective January 4, 2015. Benefits are allowed.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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