

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VIRGINIA L HUCKINS
Claimant

APPEAL NO. 11A-UI-10928-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 07/10/11
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Virginia Huckins (claimant) appealed a representative's August 12, 2011 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Taco Johns (employer). After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was scheduled for September 13, 2011. The claimant participated personally.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant worked for the employer from May 30, 2005, to the present. The claimant had a reaction to Topimate that made her not as compatible with a co-worker at work. The employer laid the claimant off on July 6, 2011, to make it easier for the claimant to go off the medication. In addition, the employer had no work for the claimant. At all times, the claimant was able and available for work. She returned to work in August 2011.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able and available for work.

871 IAC 24.23(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

When an employee is ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant was never restricted from working by her physician. She is

considered to be available. The claimant is not disqualified from receiving unemployment insurance benefits.

DECISION:

The representative's August 12, 2011 decision (reference 02) is reversed. The claimant is not disqualified from receiving unemployment insurance benefits, because she was able and available for work with the employer.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw