

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JODI D SPARGUR TATE
Claimant

APPEAL NO. 14A-UI-01533-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/19/14
Claimant: Appellant (2)

Section 96.4-3 – Able and Available
871 IAC 24.23(1) – Unable to Work/Illness or Injury

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated February 6, 2014, reference 02, that held she did not meet the availability requirements of the law as of January 19, 2014, and benefits are denied. A hearing was held on March 4, 2014. The claimant participated. Official notice was taken of claimant appeal documents.

ISSUE:

The issue is whether claimant is able and available to work.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds that: The claimant last worked for Mid-Iowa Family Therapy on November 1, 2013. The department issued February 6, 2014 decision that held claimant was discharged for absences due to illness effective January 24 and benefits are allowed. The employer did not appeal.

Claimant had foot/ankle surgery on November 1, 2013. She had doctor appointment reviews on December 27, and January 10, 2014. Her doctor advised claimant to wear a foot immobilizer, and no weight bearing on her left leg. She was rated at 95 percent healing on February 6.

She has been job searching for office setting sit-down jobs such as clerical, secretary, filing administrative assistant and counselor. She has recently been called back to an interview with the expectation of employment.

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".

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.

The administrative law judge concludes claimant meets the availability requirements of the law effective January 19, 2014 and benefits are allowed.

Claimant is eligible by reason of her most recent employment separation. Although claimant's medical restrictions precluded her from doing her former job, she has job skills for positions in an office work environment.

DECISION:

The decision of the representative dated February 6, 2014, reference 02, is reversed. The claimant is able and available for work. Benefits are allowed, provided claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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