

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HOLLY L HARRELSON**  
Claimant

**APPEAL NO: 13A-UI-12999-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARE INITIATIVES**  
Employer

**OC: 10/13/13**

**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available  
871 IAC 24.22(2)j – Leave of Absence

**STATEMENT OF THE CASE:**

Holly L. Harrelson (claimant) appealed a representative's November 19, 2013 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits in connection with her employment with Care Initiatives (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 16, 2013. The claimant participated in the hearing. A review of the Appeals Section's conference call system indicates that the employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. During the hearing, Claimant's Exhibits A and B were entered into evidence. 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.

**ISSUES:**

Was the claimant eligible for unemployment insurance benefits by being able and available for work? Was there period of voluntary unemployment through a leave of absence?

**FINDINGS OF FACT:**

After a prior period of employment with the employer, the claimant most recently started working for the employer on April 11, 2012. She works part time (about 20 hours per week) as a housekeeping and laundry aide in the employer's State Center, Iowa long-term care nursing facility, working on a Friday, Saturday, Sunday schedule. As of the date of the hearing her last day of work was October 16, 2013.

On October 17 the claimant underwent surgery to repair a surgical instrument complication following a prior heart bypass surgery. On October 11 the claimant's doctor had indicated that she would need about three weeks off work after the surgery. After the surgery the hospital discharge instructions further indicated that for about eight weeks she should be restricted to lifting no more than ten pounds. The claimant could not perform her normal job duties within these restrictions, and the employer declined to provide any other light-duty work, as the

claimant's restrictions did not result from any work-related condition. The claimant's doctor gave her a note on November 8 indicating that she could be released for work with no restrictions as of December 17. The claimant was scheduled to return to work on December 20. She established a claim for unemployment insurance benefits effective October 13, 2013.

#### **REASONING AND CONCLUSIONS OF LAW:**

For each week for which a claimant seeks unemployment insurance benefits, she must be able and available for work. Iowa Code § 96.4-3. In general, an employee who is only temporarily separated from her employment due to being on a leave of absence is not "able and available" for work during the period of the leave, as it is treated as a period of voluntary unemployment. 871 IAC 24.22(2)j; 871 IAC 24.23(10).

The claimant's unemployment from October 13 is due to her being on a leave of absence due to a non-work-related medical issue. As the condition causing her temporary unemployment was not related to the work environment, in order to be sufficiently well for the claimant to regain her eligibility status as being able and available for work, she must have a complete recovery to full work duties without restriction. *Hedges v. Iowa Department of Job Service*, 368 N.W.2d 862, 867 (Iowa App. 1985); Iowa Code § 96.5-1-d. Unemployment insurance benefits are not intended to substitute for health or disability benefits. *White v. Employment Appeal Board*, 487 N.W.2d 342 (Iowa 1992).

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able and available to work. Iowa Code § 96.4-3. For the first three weeks the claimant sought benefits she was under restrictions against any work. For the remainder of the period the claimant is seeking unemployment insurance benefits she was under sufficient work restrictions as would preclude her from returning to her regular work duties. She is therefore not eligible to receive unemployment insurance benefits for the period from October 13 through December 17, 2013.

#### **DECISION:**

The representative's November 19, 2013 decision (reference 01) is affirmed. The claimant was not able and available for work effective October 13, 2013, and the period of temporary separation was a period of voluntary unemployment not attributable to the employer. The claimant is not qualified to receive unemployment insurance benefits for the period from October 13, 2013 through December 17, 2013.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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