

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JULIE L. OXLEY**  
Claimant

**APPEAL NO: 17A-UI-07233-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA STATE UNIVERSITY**  
Employer

**OC: 06/25/17**  
**Claimant: Appellant (4)**

Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 13, 2017, 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 9, 2017. The claimant participated in the hearing with Attorney Christopher Spaulding. Drew Nishiyama, Associate Counsel, participated in the hearing on behalf of the employer. Ruth Carlton-Appleton and Brooke Christianson, University Human Resources, observed the hearing.

**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 cook I for Iowa State University from August 13, 1993 to June 28, 2017. She signed a workers' compensation settlement agreement July 14, 2017, and voluntarily left her employment.

The claimant sustained a work-related right wrist and thumb injury in July, 2014 and after surgery was restricted to working four hours per day. If she worked longer than four hours, she was not allowed to lift more than five pounds or twist or bend her wrist. The claimant had non-work related shoulder surgery in April 2017 and was not released to return to work until July 15, 2017.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is able and available for work effective July 15, 2017.

Iowa Code § 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".

The claimant was not allowed to work following her April 2017 shoulder surgery until July 15, 2017, at which time her surgeon released her to return to work. While she may not be able to perform her previous job, there are other positions in the workforce the claimant could perform with her right wrist restrictions and her shoulder. Consequently, the claimant is able and available for work effective July 15, 2017. Accordingly, benefits are allowed effective the week ending July 15, 2017, provided the claimant is otherwise eligible.

**DECISION:**

The July 13, 2017, reference 02, decision is modified in favor of the appellant/claimant. The claimant is able and available for work effective the week ending July 15, 2017. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn