

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

KIM M REINKE
Claimant

APPEAL NO: 20A-UI-01771-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PILOT TRAVEL CENTERS LLC
Employer

OC: 01/26/20
Claimant: Respondent (1)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 17, 2020, reference 02, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 13, 2020. The claimant participated in the hearing with Attorney Gary Nelson. Bill Hook, General Manager and Betty Hansen, Restaurant General Manager, participated in the hearing on behalf of the employer.

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 food service leader I for Pilot Travel Centers from June 4, 2018 to January 30, 2020. She sustained a work-related injury and the employer was not able to accommodate her permanent restrictions so her employment was terminated.

The claimant has a work-related right knee injury and was placed on permanent restrictions stating the employer shall “allow frequent sitting and infrequent standing and walking” effective January 29, 2020.

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 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".

Iowa Admin. Code r. 871-24.23(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.

Iowa Admin. Code r. 871-24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Inasmuch as the injury is considered work-related for the purposes of unemployment insurance benefits only and the treating physician has released the claimant to return to work, even with restrictions, the claimant has established her ability to work. Because the employer had no work available or was not willing to accommodate the work restrictions, the claimant is considered able and available for work and benefits are allowed.

DECISION:

The representative's decision dated February 17, 2020 (reference 02) is affirmed. The claimant is able to work and available for work effective January 26, 2020. Benefits are allowed, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/rvs