

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LIS M MOREAU
Claimant

APPEAL NO. 08A-UI-02101-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HARVEY R ECKERT
Employer

OC: 01-27-08 R: 01
Claimant: Respondent (1)

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 22, 2008, reference 03, decision that allowed benefits. After due notice was issued, a hearing was held on March 25, 2008. The claimant did participate. The employer did participate through Elvera Eckert, and Jim Higgins.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant is being treated for a back injury, but is currently able to work. She is looking for work.

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".

The claimant is physically able to work. Accordingly, benefits are allowed.

DECISION:

The February 22, 2008, reference 03, decision is affirmed. The claimant is able to work and available for work effective January 27, 2008. Benefits are allowed.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs