

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRISTINA M NEWSOME
Claimant

APPEAL NO: 14A-UI-03735-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KASTIM CORP
Employer

OC: 03/02/14
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Kristina Newsome (claimant) appealed a representative's March 28, 2014, decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Kastim (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 28, 2014. The claimant participated personally. The employer participated by Krista Schmitz, Store Manager.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from May 6 to November 29, 2013. During her employment the claimant injured her arm at work. Her physician would not allow her to work after November 29, 2013. The claimant filed for unemployment insurance benefits on March 2, 2014. The claimant had surgery on March 21, 2014. She has not been released to return to work by her physician.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is not able and available for work.

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.

When an employee is ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant has not been released to return to work by her physician. She is considered to be unavailable for work. The claimant is disqualified from receiving unemployment insurance benefits as of March 2, 2014, due to her unavailability for work.

DECISION:

The representative's March 28, 2014, decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits as of March 2, 2014, due to her unavailability for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs