

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

THERESA K WILLIAMSON
Claimant

MAQUOKETA NEWSPAPERS INC
Employer

APPEAL 15A-UI-00343-H2T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/14/14
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 31, 2014 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 24, 2015. Claimant participated and was represented by Kevin I. Halligan, Attorney at Law. Employer participated through Audrey Wineagar, Human Resources Manager. Claimant's Exhibits One through Four were entered and received into the record.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has work restrictions from a non-work-related illness or injury that limit her to working eight hours per day, no lifting over 15 pounds and no hyperextension of her neck. Her former employer is not able to accommodate her work restrictions. The claimant has been searching for work that complies with her current work restrictions. She is seeking secretarial work, light delivery work, and or sales/retail work. There are jobs in the regular labor market that she would be able to perform fully with her current work restrictions.

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 § 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. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Claimant has minimal medical restriction or other limitation on her work effective December 9, 2014. She has established that there are jobs she is qualified to obtain that exist in the regular labor market. The claimant has established that while she may not be able to perform her prior job, she is able to perform work. Thus, she is considered able to and available for work effective December 14, 2104. Accordingly, benefits are allowed.

DECISION:

The December 31, 2014 (reference 02) decision is reversed. The claimant is able to work and available for work effective December 14, 2014. Benefits are allowed.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/can