

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANITA CARTER
Claimant

APPEAL NO: 15A-UI-11369-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EMPLOYMENT SERVICES
Employer

OC: 08/30/15
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 1, 2015, 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 October 27, 2015. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

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 hired as a full-time certified nursing assistant (CNA) by Heartland Employment Services (Manor Care) May 14, 2015, and believes she continues to be employed with Manor Care. The claimant was working the night shift until August 11, 2015, when she asked to work PRN because she believed the employer did not have enough staff on either the night shift or the day shift and it was too much work for her and one other CNA to do at night. The claimant also suffers from several non-work related health conditions such as sickle cell anemia, heart disease, diabetes, and diabetic neuropathy, among others, which also made it difficult for her to walk and to perform the lifting duties of her job. The claimant's physician gave her a note restricting her from "heavy lifting" because of her heart but it did not contain a weight limit. Her doctor also suggested she restrict her hours for one week beginning August 11, 2015, prior to an August 18, 2015, surgery she was scheduled to have on her gallbladder. The claimant has not spoken to the employer since informing the scheduler she wanted to work PRN August 11, 2015. She testified she was not able to work at this time because of her medical conditions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not 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".

In order to be eligible to receive unemployment insurance an individual must be able to perform some type of work. In this case the claimant testified she was unable to work at any job at this time due to her medical conditions.

The claimant's main complaint about her job with the employer was that there was not enough staff which in turn caused more work for her and the other CNA working on the night shift. She stated it was due to that reason she notified the employer she wanted to work PRN.

Because the claimant is unable to work at this time due to her medical conditions and requested to work PRN because the employer was short-handed which resulted in additional work for her and the other CNA, the administrative law judge must conclude the claimant is not able and available for work within the meaning of the law. Therefore, benefits must be denied.

DECISION:

The October 1, 2015, reference 02, decision is affirmed. The claimant is not able to work and available for work effective August 30, 2015. Benefits are denied.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs