

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HEIDI J HAUT
Claimant

APPEAL NO. 11A-UI-05297-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KRAFT PIZZA CO
Employer

**OC: 02/27/11
Claimant: Appellant (1)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Heidi Haut filed an appeal from a representative's decision dated April 11, 2011, reference 01, which held she was not eligible to receive benefits effective February 27, 2011 because she was not able to work. After due notice was issued, a hearing was held by telephone on May 16, 2011. Ms. Haut participated personally. The employer responded to the notice of hearing but the designated witness was not available at the scheduled time.

ISSUE:

At issue in this matter is whether Ms. Haut satisfied the availability requirements of the law effective February 27, 2011.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Haut began working for Kraft Pizza Company on July 30, 2008 and last performed services on December 8, 2010. She was employed full time as a laborer. At the time of separation, she was pregnant and her doctor advised that she not lift more than 25 pounds. Because her job did not require her to lift more than 25 pounds, she continued to perform her normal job for approximately one week. Her job required her to work around chemicals. Both her doctor and the company doctor agreed she could continue her job as long as she was provided with rubber gloves and a face mask.

The employer did not accommodate Ms. Haut's need for protective equipment. At about that time, the employer was in the process of reorganizing and advised Ms. Haut that she would need to bump into a different position. The positions available for her to bump into required tasks that were inconsistent with her medical restrictions. Therefore, she requested and was granted a medical leave of absence. Her leave under the Family and Medical Leave Act was exhausted as of March 3, 2011. She then began a new medical leave of absence that expires on August 30, 2011. Her baby is due June 28, 2011. Ms. Haut has not been looking for work since filing her claim for job insurance benefits effective February 27, 2011.

REASONING AND CONCLUSIONS OF LAW:

In order to receive job insurance benefits, an individual must satisfy the availability requirements of Iowa Code section 96.4(3). An individual who is on a requested leave of absence is considered voluntarily unemployed and, therefore, not eligible for benefits. 871 IAC 24.22(2)j. Although Ms. Haut requested a leave of absence, she did so only because the employer did not provide her with work that was within her medical restrictions. She was capable of performing the job she had been performing but would not have been able to perform the jobs she would have had to bump into in order to remain employed. The administrative law judge cannot conclude that the leave request was voluntary.

Iowa Code section 96.4(3) also requires that an individual actively and earnestly seek work when claiming job insurance benefits. This requirement is waived if an individual is temporarily unemployed as defined by law. An individual is considered temporarily unemployed if she is not working due to a plant shutdown, vacation, inventory, lack of work, or an emergency. Iowa Code section 96.19(38)c. It is concluded that Ms. Haut is not temporarily unemployed and, therefore, must satisfy the requirement that she actively and earnestly look for work. Because she has not been doing so since filing her claim, she is not entitled to benefits.

Benefits shall be denied until such time as Ms. Haut provides proof that she is able to work, her pregnancy notwithstanding, and that she is actively and earnestly looking for work.

DECISION:

The representative's decision dated April 11, 2011, reference 01, is hereby affirmed. Ms. Haut is denied job insurance benefits effective February 27, 2011 as she failed to satisfy the availability requirements of the law. Benefits are denied until she provides proof to her local office that she satisfies the requirements of the law as set forth herein, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css