

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARIAH M DALE**  
Claimant

**APPEAL NO: 15A-UI-11144-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QUIKTRIP CORPORATION**  
Employer

**OC: 09/13/15  
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Mariah Dale (claimant) appealed a representative's October 1, 2015, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Quiktrip Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 20, 2015. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. Exhibit D-1 was received into evidence

**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 April 27 to August 14, 2015. The claimant provided the employer with a doctor's note on or about August 14, 2015, releasing her to work with a ten-pound weight restriction. The employer told her she could not work with the restriction but could return after the restriction was lifted. The claimant could perform work such as light cleaning, running the cash register, and cigarette, candy and gum stocking.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is able to 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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 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.

The claimant is restricted from lifting over ten pounds. Other than this restriction the claimant can perform work in a number of positions which do not require lifting over ten pounds. The claimant has met her burden of proof to show that she has the ability to work.

**DECISION:**

The representative's October 1, 2015, decision (reference 01) is reversed. The claimant is not disqualified from receiving unemployment insurance benefits because she is able to work with the employer.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/css