

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIELLE L SKARIN
Claimant

APPEAL NO. 08A-UI-03176-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA BEARING CO
Employer

OC: 03/02/08 R: 02
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 28, 2008, reference 04, which held claimant not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on April 15, 2008. Claimant participated personally. Employer participated by Patricia Webster, Human Resource Generalist. Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether 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: Claimant was restricted to part-time work effective March 3, 2008 by her treating doctor due to a non-work-related condition. Claimant had a follow-up appointment that she did not keep. No doctor has terminated the work restrictions. Claimant felt that she was able to return to full time work March 15, 2008.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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".

Inasmuch as the illness was not work-related and the treating physician has not released the claimant to return to work, the claimant has not established the ability to work. Benefits are withheld effective March 2, 2008, until such time as the claimant obtains a full medical release to return to work.

DECISION:

The decision of the representative dated March 28 2008, reference 04, is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective March 2, 2008, until claimant obtains a full medical release to return to work.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw