

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KATHARINE M DARR
Claimant

APPEAL NO. 14A-UI-07692-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 07/06/14
Claimant: Respondent (4)

Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated August 28, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on August 28, 2014. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Alyce Smolsky participated in the hearing on behalf of the employer with witnesses, Casey Stephens and Kelly Bailey.

ISSUE:

Was the claimant able to and available for work?

FINDINGS OF FACT:

The claimant worked full time for the employer as a certified nursing assistant from November 1, 2013, to July 1, 2014.

In July 2014, the claimant stopped work due to medical reasons that required surgery. She was informed that she could go on medical leave and return to work after she was released by her doctor if she provided medical evidence excusing her from working. The claimant submitted a doctor's statement dated July 22, 2014, that stated that the claimant was recovering after major surgery and would be off work for 8 to 12 weeks. The claimant was informed that her job would be protected and she would be allowed to return to work after she recovered.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3.

The unemployment insurance rules at 871 IAC 24.23(10) provides that a claimant who requests and is granted a leave of absence is considered voluntarily unemployed and unavailable for work. In this case, the claimant was not able to and available for work effective July 6, 2014. She was not discharged and is employee on medical leave.

DECISION:

The unemployment insurance decision dated August 28, 2014, reference 01, is modified in favor of the employer. The claimant is ineligible for unemployment insurance benefits because she is not able to and available for work.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css