

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VALERIE S ROWLAND-JONES
Claimant

APPEAL NO. 09A-UI-01788-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 12/14/08 R: 02
Claimant: Appellant (2)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, Valerie Rowland-Jones, filed an appeal from a decision dated January 28, 2009, reference 01. The decision found her ineligible from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on February 25, 2009. The claimant participated on her own behalf and with witnesses Jim Lee and Shelli DePlanque. The employer, Care Initiatives, participated by Administrator Jacalyn Gacke and Business Office Manager Janice McKay and was represented by TALX in the person of Alyce Smolsky.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Valarie Rowland-Jones was employed by Care Initiatives from February 28, 2008 until December 12, 2008 as a full-time certified nursing assistant. She broke her left wrist in a non-work-related accident on December 6, 2008, and had a doctor's excuse to be off work until December 15, 2008. After that, she was released to work light duty with a lifting restriction of five pounds.

Ms. Rowland-Jones met with Administrator Jacalyn Gacke and Business Office Manager Janice McKay on December 12, 2008, providing them with her doctor's note. At that meeting, she was informed the employer had no light-duty work for non-work-related injuries, she did not qualify for FMLA, and her job could not be held open for her. The employer encouraged her to reapply when she was fully released by her doctor.

The claimant filed a claim for unemployment benefits with an effective date of December 14, 2008. She has work experience in using a computer and cash register, has been manager of a jewelry store, run her own business, and worked in a doctor's office. All of these jobs can be performed within the five-pound lifting restriction. Ms. Rowland-Jones's doctor released her without restrictions effective February 5, 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".

The claimant's employment with Care Initiatives ended December 12, 2008. Therefore, she need only be available in the labor market generally in order to be eligible for benefits. Ms. Rowland-Jones has provided sufficient evidence she was able to perform work in various business environments that would not violate her work restrictions. Therefore, she is able and available for work and eligible for unemployment benefits.

DECISION:

The representative's decision of January 28, 2009, reference 01, is reversed. Valerie Rowland-Jones is able and available for work and eligible for unemployment benefits, provided she is otherwise qualified.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw