

## UNEMPLOYMENT INSURANCE APPEALS

**CODI PROESCH**  
Claimant

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**APPEAL NO. 17A-UI-06302-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/28/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.4-3 – Able and Available

### **STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated June 15, 2017 reference 02, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on July 10, 2017. Claimant participated personally.

### **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 has been on intermittent leave for an extended period of time. Claimant's doctor prepared a request for continuous leave from May 19, 2017 through July 17, 2017. Claimant has not yet been released to return to work by his doctor.

### **REASONING AND CONCLUSIONS OF LAW:**

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 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".

Iowa Admin. Code r. 871-24.23(35) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(35) Where the claimant is not able to work and is under the care of a physician and has not been released as being able to work.

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 until such time as the claimant obtains a full medical release to return to work.

**DECISION:**

The decision of the representative dated June 15, 2017, reference 02 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective May 19, 2017. As of this date claimant has not established that he is able and available to return to the work force.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

bab/scn