

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

DENETRICE M JOHNSON
Claimant

APPEAL NO: 18A-UI-01226-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 04/23/17
Claimant: Respondent (4-R)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The employer filed a timely appeal from the January 18, 2018, reference 03, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 21, 2018. The claimant participated in the hearing. Colleen McGuinty, Unemployment Insurance Administrator and Julie Thill, Account Manager, participated in the hearing on behalf of the employer. The parties waived notice on whether the claimant is able and available for work.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed as a part-time general laborer for L A Leasing and has been assigned to Nordstrom Distribution Center since July 10, 2017. She is still employed in that capacity for the employer.

The claimant was experiencing health problems the last two weeks of November 2017, and was required to wear a high blood pressure monitor. If her blood pressure set off the monitor she had to go to the hospital for treatment. On December 22, 2017, the claimant left 4.45 hours early due to illness; on December 26, 2017, January 2 and January 9, 2018, she called in and reported she was ill; on January 11, 2018, she left 4.43 hours early due to illness; on January 15, 2018, she left 2.50 hours early due to illness; on February 5, 2018, she had a medical appointment and did not work; on February 8, 2018, she called in and reported she was ill; and on February 12, 2018, the claimant called the employer and stated she was in the hospital and would not be available for the next two weeks.

There are issues regarding whether the claimant worked the major portion of the workweek beginning the week ending December 23, 2017, and whether she correctly reported wages that have not yet been heard and adjudicated by the Claims Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work effective the week ending February 17, 2018.

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".

The claimant was hospitalized and notified the employer February 12, 2018, she cannot work for the two weeks ending February 24, 2018. She is not considered able and available for work during those two weeks. Accordingly, benefits are denied for the two weeks ending February 24, 2018.

The issues of whether the claimant worked the major portion of the workweek and whether she reported wages earned beginning the week ending December 23, 2017, is remanded to the Claims Bureau for an initial determination and adjudication.

DECISION:

The January 18, 2018, reference 03, decision is modified in favor of the employer. The claimant is not able to work and available for work effective February 12, 2018. Benefits are denied for the two weeks ending February 24, 2018. The issues of whether the claimant worked the major portion of the workweek and whether she correctly reported wages beginning the week ending December 23, 2017, is remanded to the Claims Bureau for an initial determination and adjudication.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn