

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEXIS S JACKSON
Claimant

APPEAL NO. 08A-UI-07816-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLLAR GENERAL
Employer

OC: 07/27/08 R: 01
Claimant: Appellant (1/R)

Section 96.4-3 – Ability to and Availability for Work

STATEMENT OF THE CASE:

Alexis S. Jackson (claimant) appealed a representative's August 25, 2008 decision (reference 01) that concluded she was not eligible to receive benefits because she was not able to work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 15, 2008. The claimant participated in the hearing. Ruth Carter, the store manager, appeared on behalf of Dollar General (employer). Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Since June 3, 2008, the claimant has not been able to work for the employer at her part-time cashier job. Although a doctor's June 16 statement indicated she was released to work as of June 17, 2008, without any work restrictions, the claimant informed the employer she was still in pain and unable to work. The claimant understood she was on a personal leave of absence from her employment.

The claimant established a claim for benefits during the week of July 27, 2008. When the claimant established her claims she was restricted from working and had not been released to work. On August 25, the claimant saw her doctor and again was not released to work. As of the September 15, the claimant understood her physician had not released her to work.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4-3. Since the claimant's physician has restricted her from working, the claimant is not able to work. As of September 15, 2008, the claimant is still unable to work because her physician has not released her to do work. Therefore, as of July 27, 2008, the claimant is not eligible to receive benefits.

When the claimant's physician releases her to work, the claimant should reopen her claim and then provide a doctor's statement indicating she has been released to work with or without restrictions. The Claims Section can at that time re-examine her ability to work.

During the hearing, the employer established that the employer no longer considers the claimant an employee. Since the reason for the claimant's employment separation has not yet been addressed, this issue is remanded to the Claims Section to determine.

DECISION:

The representative's August 25, 2008 decision (reference 01) is affirmed. The claimant did not establish that she is able to or available for work July 27 through September 15, 2008. If the claimant's physician releases her to work, she should reopen her claim so the Claims Section can re-examine her eligibility to receive benefits. This case is remanded to the Claims Section to determine the reasons for the claimant's employment separation.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css