

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ELIZABETH S MARTIN**  
Claimant

**GENERAL ELECTRIC CO**  
Employer

**APPEAL 16A-UI-10901-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/11/16**  
**Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 30, 2016, (reference 02) unemployment insurance decision that denied benefits effective September 11, 2016 finding the claimant not able to and available for work. The parties were properly notified about the hearing. A telephone hearing was scheduled to be held on October 25, 2016. Claimant had registered to participate but did not answer her telephone when the administrative law judge called her to begin the hearing. Employer did not register to participate. The claimant submitted documents from her doctor which were entered into the record as claimant's exhibit A. A review of the claimant's exhibits indicates that no additional testimony was necessary.

**ISSUES:**

Was the claimant able to and available for work September 11, 2016?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was on a leave of absence through September 11, 2016 when her doctor released her to return to work without restrictions. The claimant returned to work until she was laid off due to lack of work on October 2, 2016.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective September 11, 2016.

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. 871-24.22(2)j(1), (2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

Iowa Admin. Code r. 871-24.23(10) provides:

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

The claimant was released to return to work without restrictions on September 11, 2016. She was able to and available for work effective September 11, 2016. Accordingly, benefits are allowed.

**DECISION:**

The September 30, 2016, (reference 02) decision is reversed. The claimant is able to work and available for work effective September 11, 2016. Benefits are allowed, provided the claimant is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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