

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAREN J FASSLER
Claimant

APPEAL NO: 15A-UI-12845-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 10/25/15
Claimant: Appellant (4/R)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Karen Fassler (claimant) appealed a representative's November 12, 2015 (reference 02) decision that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on December 10, 2015. The claimant did participate.

ISSUE:

The issue is whether the 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 that: The claimant worked for the employer, Raining Rose, from July 30, 2012 to October 26, 2015. The claimant had surgery on October 29, 2015. Her doctor released her to return work with restrictions on or about November 7, 2015. The claimant was then separated from employment.

A representative's decision was issued on December 4, 2015 (reference 04) that concluded the claimant was not eligible to receive unemployment insurance benefits beginning November 8, 2015 because she was able and available for work.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits as of November 8, 2015, provided claimant is otherwise eligible.

Iowa Admin. Code r. 871-24.23(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

When an employee is ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant was restricted from working through November 7, 2015 and is considered to be unavailable for work during that time. On November 8, 2015, the claimant was released to return to work with restrictions by her physician. She is considered to be available for work because her physician stated she was able and available for work. The claimant is not disqualified from receiving unemployment insurance benefits as of November 8, 2015.

The issue of the claimant's separation from employment is remanded for determination.

DECISION:

The representative's November 12, 2015 (reference 02) decision is modified in favor of the appellant. The claimant is qualified to receive unemployment insurance benefits as of November 8, 2015, provided claimant is otherwise eligible.

The issue of the claimant's separation from employment is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

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