

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

NIKI J MEADOR

Claimant

FULL CIRCLE SERVICES INC

Employer

APPEAL NO: 14A-UI-05223-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/02/14

Claimant: Respondent (1)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

An appeal was filed from a representative's unemployment insurance decision dated May 14, 2014 (reference 04) that concluded claimant was eligible for unemployment insurance benefits after a separation from employment. Notices of hearing were mailed to the parties' last-known addresses of record for a telephone hearing scheduled for June 9, 2014. Claimant participated. Employer participated by Matt Archibald, Human Resource Coordinator. Exhibit One was admitted into evidence.

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 went off work due to a non-work related medical problem. Claimant was finally released to full duty work effective March 14, 2014 pursuant to order of Dr. Erica Lawler. Claimant is able and available for full-time work.

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. 871-24.22(1)a 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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

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 injury was not work-related and the treating physician has released the claimant to return to work, the claimant has established the ability to work. Benefits shall be allowed effective March 23, 2014.

DECISION:

The decision of the representative dated May 14, 2014, reference 04 is affirmed. Claimant is eligible to receive unemployment insurance benefits, effective March 23, 2014, provided claimant meets all other eligibility requirements.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/can