

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
JANET L HENDERSON Claimant	APPEAL NO: 09A-UI-03054-S2T
IOWA WORKFORCE DEVELOPMENT DEPARTMENT	ADMINISTRATIVE LAW JUDGE DECISION
	OC: 11/09/08 Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Janet Henderson (claimant) appealed a representative's February 17, 2009 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work due to injury. After hearing notices were mailed to the claimant's last-known addresses of record, a telephone hearing was scheduled for March 24, 2009. The claimant was represented by James Hoffman, Attorney at Law, and participated personally.

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 was injured on October 1, 2006. She was released to return to work with restrictions in June 2007, and without restrictions on August 22, 2008. The claimant filed for unemployment insurance benefits with an effective date of November 9, 2008. Since filing for unemployment insurance benefits she has at all times been able and available for work.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able and available for work.

871 IAC 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 released to return to work 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.

DECISION:

The representative's February 17, 2009 decision (reference 01) is reversed. The claimant is not disqualified from receiving unemployment insurance benefits because she is able and available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

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