

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI	
<b>TERI L BLANK</b> Claimant	<b>APPEAL NO: 18A-UI-07232-S1-T</b>
<b>GOOD SAMARITAN SOCIETY INC</b> Employer	<b>ADMINISTRATIVE LAW JUDGE DECISION</b>
	<b>OC: 06/03/18</b> <b>Claimant: Appellant (1)</b>

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Teri Blank (claimant) appealed a representative's July 2, 2018, decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Good Samaritan Society (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 24, 2018. The claimant was represented by Dustin Mueller, Attorney at Law, and participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

**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 from August 24, 2014, to May 24, 2018. She suffered a work-related injury on February 7, 2017. Her physician restricted her hours and lifting December 8, 2017, and January 9, 2018. Her physician allowed her to lift up to fifteen pounds to shoulder level occasionally. She could lift ten pounds frequently. The doctor thought she was capable of full-time work in the future. She worked with those restrictions through May 24, 2018, pushing residents in wheelchairs/shower chairs and giving residents showers.

On or about May 24, 2018, the claimant told the employer she could not perform those duties anymore. She thought it was too much weight for her to push and needed to rotate to a different job. The claimant did not have restrictions on pushing and the employer did not have other work for her. The employer, claimant, and the claimant's attorney met on May 25, 2018. The claimant resigned her position with the employer as part of a workers' compensation settlement agreement.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is not able and available for work.

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.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When an employee is medically unable to perform work, she is considered to be unavailable for work. The claimant was restricted from lifting over ten or fifteen pounds. Other than this restriction her physician said the claimant could perform work with limited hours but the claimant indicated she was medically unable to perform the work. Therefore, the claimant is disqualified from receiving unemployment insurance benefits beginning June 3, 2018, due to her unavailability for work.

Should the claimant again become able and available for work, she may provide a more recent note from a physician to the department.

**DECISION:**

The representative's July 2, 2018, decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she is not available for work. Should the claimant again become able and available for work, she may provide a more recent note from a physician to the department.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs