

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DIANA E GILLIS Claimant IOWA WORKFORCE DEVELOPMENT DEPARTMENT	<div>68-0157 (9-06) - 3091078 - EI</div> <div>APPEAL NO. 07A-UI-05104-DWT ADMINISTRATIVE LAW JUDGE DECISION</div> <div>OC: 04/15/07 R: 01 Claimant: Appellant (2)</div>
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Section 96.4-3 – Ability to and Availability for Work

STATEMENT OF THE CASE:

Diana E. Gillis (claimant) appealed a representative's May 3, 2007 decision (reference 02) that concluded she was not eligible to receive benefits as of April 15, 2007, because she was not able to work due to an illness. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on June 5, 2007. The claimant participated in the hearing with her attorney, Monty Fisher. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant able to work as of April 15, 2007?

FINDINGS OF FACT:

The claimant has a herniated disk. The claimant's doctor gave her work restrictions of no bending and no heavy lifting in late March 2007. Even with the work restrictions, the claimant continued to work. The week of April 15, the claimant was scheduled for an epidural to relieve pain she experienced. The claimant's doctor has not recommended surgery, but anticipates the claimant will continue to experience pain from an injury she received.

Even with the work restrictions, the claimant continued working. Even though the claimant still has the same work restrictions, she is able to and available for work.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4-3. The evidence establishes the claimant is able to and available for work as of April 15, 2007. Therefore, the claimant is eligible to receive benefits as of April 15, 2007.

DECISION:

The representative's May 3, 2007 decision (reference 02) is reversed. Even though the claimant had work restrictions while she worked, she was still able to perform her job. The claimant is still able to and available for work even though she has the same work restrictions as she had the last three weeks of her employment.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw