

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANNE P LEVONGKHOM**  
Claimant

**APPEAL NO. 16A-UI-01840-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WEBSTER CITY CUSTOM MEATS INC**  
Employer

**OC: 01/10/16**  
**Claimant: Respondent (1)**

Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from a representative's decision dated February 4, 2016, reference 02, which held claimant eligible to receive unemployment insurance benefits beginning January 10, 2016 finding the claimant was not able and available for employment. After due notice was issued, a telephone hearing was held on March 8, 2016. The claimant participated. Participating on behalf of the claimant was Mr. William Scherle, Attorney at Law. The employer participated by Mr. Stuart Cochrane, Attorney at Law, and witness, Ms. Connie Ingraham. The official interpreter was provided by Interpreter Services. Exhibits One, Two and Three were admitted into the hearing record.

**ISSUE:**

The issue is whether the claimant was able and available for work within the meaning of the Employment Security Law.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Anne Levongkhom was employed by Webster City Custom Meats, Inc. from August 23, 2010 until December 17, 2015 when she was discharged from employment. The claimant had previously received a work injury and had been on light-duty limitations. The claimant had been taken off work by the employer on December 1, 2015 pending further information about the claimant's ability to work with the doctor's limitations that had been recently temporarily imposed.

The claimant had received an independent medical examination on December 4, 2015. The examination concluded that as of December 4, 2015 restrictions had been removed and the claimant was able to return to regular employment. The claimant filed an unemployment insurance claim and is actively and earnestly seeking 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".

The evidence in the record establishes the claimant is able and available for work as of December 4, 2015 and is qualified to receive unemployment insurance benefits providing that she meets all other eligibility requirements of Iowa law.

**DECISION:**

The representative's decision dated February 4, 2016, reference 02, is affirmed. Claimant is able and available for work beginning January 10, 2016.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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