

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIELLE HOWARD
Claimant

APPEAL NO: 14A-UI-10654-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEST IMPRESSIONS INC

OC: 09/21/14
Claimant: Appellant (1/R)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Danielle Howard (claimant) appealed a representative's October 7, 2014 (reference 01) decision that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Best Impressions (employer). After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on February 6, 2015. The claimant participated personally. The employer was represented by Ann Holden Kendell, Attorney at Law, and participated by Pat Rhoades, Owner; Stacy Earley, Human Resources with Merit Resources; Steve Gibson, Production Manager; and James Eaton, Co-Owner. The claimant offered and Exhibit A was received into evidence. The employer offered and Exhibits One, Two, Three, Four, and Five were received into evidence.

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 October 18, 2012 to September 12, 2014. During her employment the claimant suffered from migraines. On September 10, 2014 the claimant's physician wrote the claimant a note indicating the claimant could work with restrictions. The claimant was to stop looking at the computer screen for five minutes out of every hour and not lift more than thirty pounds. The employer was able to accommodate the claimant's restrictions. The employer thought the claimant was not performing the work properly with those restrictions. On September 17, 2014 the employer told the claimant she was placed on a medical leave of absence.

On October 17, 2014 the claimant's physician wrote the claimant another note indicating she could work with the same restrictions. The claimant collected her personal belongings from the workplace when the employer would not allow her to return to work. On October 21, 2014 the employer sent the claimant a letter indicating she was separated from employment.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is 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.

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 with restrictions by her physician. She is considered to be available for work because her physician stated she was able and available for work. The employer was able to accommodate the restrictions. The medical leave of absence was issued rather than issuing the claimant a reprimand for poor performance. The claimant is not disqualified from receiving unemployment insurance benefits.

The issue of the separation from employment is remanded for determination.

DECISION:

The representative's October 7, 2014 (reference 01) decision is affirmed. The claimant is qualified to receive unemployment insurance benefits because she is able to work with the employer. The issue of the separation from employment is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/can