

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARY LEVIS

Claimant

APPEAL NO. 14A-UI-03826-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 02/23/14

Claimant: Appellant (1)

Iowa Code § 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

Mary Levis (claimant) appealed an unemployment insurance decision dated April 3, 2014, (reference 01), which held that she was not eligible for unemployment insurance benefits because she was working at the same hours and wages with Casey's Marketing Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 30, 2014. The claimant participated in the hearing. The employer participated through Kristi Howard, Store Manager. Employer's Exhibits One and Two were admitted into evidence.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable or unable to 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 hired as a part-time cashier on March 18, 2009 and became full-time on June 7, 2009. She was placed on non-work-related medical restrictions on February 18, 2014, and could work no more than four hours per day. Her hours increased on March 25, 2014, to 5.5 hours per day. The employer has a medical excuse that releases the claimant to regular duty effective May 19, 2014.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able and available for work. Iowa Code § 96.4-3. The claimant has the burden of proof in establishing her ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). An individual is disqualified for benefits if they are ill and not able to perform work due to illness. 871 IAC 24.23(3). The claimant was hired as a full-time cashier but the facts establish she is not medically able to work her full-time hours. The claimant fails to meet the availability requirements. Benefits are denied.

DECISION:

The unemployment insurance decision dated April 3, 2014, (reference 01), is affirmed. Partial unemployment insurance benefits are denied as of March 1, 2014.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs