

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARGARETE L ROBERTSON
Claimant

APPEAL NO: 15A-UI-10308-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HENNIGES AUTOMOTIVE IOWA INC

OC: 05/10/15
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Margarete Robertson (claimant) appealed a representative's September 8, 2015, decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to perform work for Henniges Automotive Iowa (employer). Benefits were denied as of August 16, 2015. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 25, 2015. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. Exhibit D-1 was received into evidence. The claimant offered and Exhibit B was received into evidence. The claimant indicated at the hearing she would provide a document for consideration after the record closed. She did so. Exhibit B was 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 November 10, 2014, to August 19, 2015. The claimant's work aggravated a prior injury the claimant suffered during the birth of her daughter in 2011. The claimant was absent from work to see a surgeon in August 2015. The doctor determined she could return to work on August 7, 2015, and did not need surgery.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits as of August 16, 2015.

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 by her physician on August 7, 2015. She is considered to be able to work because her physician stated she was able to work. Benefits are allowed as of August 16, 2015, provided claimant is otherwise eligible.

DECISION:

The representative's September 8, 2015, decision (reference 03) is reversed. Benefits are allowed as of August 16, 2015, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css