

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MONICA L MURRAY
Claimant

APPEAL NO: 14A-UI-07389-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLGENCORP LLC

OC: 06/08/14
Claimant: Appellant (2/R)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Monica Murray (claimant) appealed a representative's July 9, 2014 (reference 02) decision that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Dolgencorp (employer). After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on August 11, 2014. 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. The claimant offered and Exhibit A 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 was hired on July 20, 2012 as a full-time lead sales associate. On May 16, 2014 the claimant was feeling sore and went to her physician. The doctor ran some tests and on June 9, 2014 diagnosed her with psoriatic arthritis. On June 9, 2014 the claimant's physician wrote the claimant a return to work note. The doctor gave the claimant a weight restriction and did not allow the claimant to lift/carry/move items over her shoulder height. The claimant could work within her job description with those restrictions. The employer would not allow the claimant to work. The claimant filed for unemployment insurance benefits with an effective date of June 8, 2014.

On August 7, 2014 the claimant quit her position with the employer to start work with Sunrise Hill Care and Rehab Center on August 6, 2014.

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 claimant is not disqualified from receiving unemployment insurance benefits.

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

DECISION:

The representative's July 9, 2014 (reference 02) decision is reversed. The claimant is not disqualified from receiving unemployment insurance benefits.

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

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/can