

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIA R KOTSIOMITIS
Claimant

APPEAL NO. 06A-UI-09611-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CARGILL MEAT SOLUTIONS
CORPORATION**
Employer

**OC: 04/16/06 R: 03
Claimant: Appellant (2)**

Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 25, 2006, reference 03, that concluded she was not able to and available for work. A telephone hearing was held on October 16, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant able to and available for work?

FINDINGS OF FACT:

The claimant worked full time for the employer as a production worker from July 26, 2004, to April 17, 2006. On April 14, 2006, the claimant was diagnosed with hyperthyroidism, a condition aggravated by exposure to high temperatures. The claimant's doctor did not restrict the claimant from working completely but only to avoid working in a job with a high-temperature work environment. The claimant was able to perform jobs in parts of the plant where she would not be exposed to high temperatures. She has been actively looking for jobs for which she is suited, including factory jobs.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code section 96.4-3. The unemployment insurance rules provide that a person must be physically able to work, not necessarily in the individual's customary occupation, but in some reasonably suitable, comparable, gainful, full-time endeavor that is generally available in the labor market. 871 IAC 24.22(1)b.

Although the medical form in the files talks about the claimant not being able to perform her occupation, the form itself asks the wrong question. Even though the claimant may not have

been able to do her former job, which involved working in a hot work environment, she could do other production jobs. The evidence establishes that the claimant was able to perform gainful work, just not work in hot temperatures. There is work available in the labor market meeting such restrictions that the claimant is qualified to perform, and the claimant has been actively looking for such work in compliance with the requirements of the law.

DECISION:

The unemployment insurance decision dated September 25, 2006, reference 03, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs