

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAYME L KLUG
Claimant

APPEAL NO. 12A-UI-06002-VST

WELLS FARGO BANK NA
Employer

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/29/12
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated May 21, 2012, reference 01, which held that the claimant was not eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 18, 2012. Claimant participated. The employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Jayme Klug and Claimant's Exhibits A and B.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant established an original claim for unemployment insurance benefits effective April 29, 2012. The claimant had been terminated from her employment on April 18, 2012. The representative ruled that the claimant was not able and available for work. The claimant was released to return to work without restrictions on April 30, 2012. The claimant has been actively seeking employment.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

The evidence in this case established that the claimant was able and available for work as of April 30, 2012. The claimant submitted a written return to work slip from her medical provider that allowed the claimant to return to work as of April 30, 2012. Benefits are allowed if the claimant is otherwise eligible.

DECISION:

The decision of the representative dated May 21, 2012, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs