

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

VICTORIA L ERDMAN
Claimant

**MASON CITY LODGING PARTNERS
AG MANAGEMENT SERVICES**
Employer

APPEAL NO. 14A-UI-02456-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/26/14
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 25, 2014, reference 04, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on March 26, 2014. Claimant participated. Employer responded to the hearing notice and did not participate as the representative was not available when called and did not call in before the hearing was over. Exhibits One and A were admitted into evidence.

ISSUE:

The issue in this matter is whether 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: Claimant last worked for employer on October 27, 2013. Claimant went off work due to a non-work-related illness. Claimant promptly informed employer. Claimant recovered and was released to full duty January 17, 2014. Claimant returned to ask for her job back January 20, 2014. Employer did not have any work or hours available.

Claimant is willing to work in her usual occupation. Claimant has not turned down any hours in the hotel industry. Claimant is now employed at Kohl's at a job she previously held. Claimant is able and available for full-time work in occupations for which she has prior training and experience.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant is able and available for work. Claimant's request for work after recovery demonstrates a desire to work. Claimant's search for work in prior occupations and current employment demonstrates that she is able and available for work effective January 26, 2014. Benefits allowed.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

DECISION:

The decision of the representative dated February 25, 2014, reference 04, is reversed. Unemployment insurance benefits are allowed effective January 26, 2014, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css