

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDA PETERSON
Claimant

APPEAL NO: 15A-UI-05168-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/22/14
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 28, 2015, reference 09, decision that determined she was not able and available for work from February 15 through March 7, 2015. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 10, 2015. The claimant participated in the hearing.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time associate for Ellie's Tea and Coffee from January 2015 to May 2015. She burned the top of her hand while at work February 18, 2015, and sought medical treatment from the employer's worker's compensation physician February 19, 2015. She was released to return to work immediately with the restrictions of keeping the burn clean and dry and covered at all times while at work. The employer did not want the claimant to return to work and perform duties related to food preparation even though employees wore gloves when preparing food. Consequently, the claimant was not allowed to return to work by the employer until the week ending March 21, 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

Iowa Code § 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".

Iowa Admin. Code r. 871-24.23(1), (35) 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.

(35) Where the claimant is not able to work and is under the care of a physician and has not been released as being able to work.

Inasmuch as the injury is considered work-related for the purposes of unemployment insurance benefits only and the treating physician has released the claimant to return to work, even with restrictions the claimant has established her ability to work. Because the employer had no work available or was not willing to accommodate the work restrictions, benefits are allowed for the three weeks ending March 7, 2015.

DECISION:

The representative's decision dated April 28, 2015, (reference 09) is reversed. The claimant is able to work and available for work effective February 15, 2015. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs