

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KANDY K JENSEN

Claimant

APPEAL NO. 12A-UI-11824-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ASTORIA INDUSTRIES OF IOWA INC

Employer

OC: 07/15/12

Claimant: Appellant (4)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Kandy Jensen (claimant) appealed a representative's September 26, 2012 decision (reference 06) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Astoria Industries (employer) on July 15, 2012, due to injury. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 18, 2012. The claimant participated personally. The employer participated by Tiffany Phillips, human resources manager.

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 having considered all of the evidence in the record, finds that: The claimant worked for the employer from June 26 to July 6, 2012. On July 8, 2012, the claimant broke her shoulder in a non-work-related incident. Her physician released her to return to work without restrictions on October 18, 2012.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able and available for work as of October 18, 2012.

871 IAC 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 injured and unable to perform work due to that medical condition, she is considered to be unavailable for work. The claimant was released to return to work without

restrictions by her physician. She is considered to be available for work as of October 18, 2012, because her physician stated she was able and available for work. The claimant is not disqualified from receiving unemployment insurance benefits as of October 18, 2012.

The claimant is directed to provide a copy of the release to Iowa Workforce Development within ten days of the date of this decision.

DECISION:

The representative's September 26, 2012 decision (reference 06) is modified in favor of the appellant. The claimant is not disqualified from receiving unemployment insurance benefits as of October 18, 2012. The claimant is directed to provide a copy of the release to Iowa Workforce Development within ten days of the date of this decision.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw