

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEAN M HIXSON KRUSE
Claimant

APPEAL NO. 09A-UI-08021-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FEDERAL EXPRESS CORP
Employer

OC: 04/05/09
Claimant: Respondent (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated May 28, 2009, reference 01, which held claimant able and available for work. After due notice, a telephone conference hearing was scheduled for and held on June 19, 2009. Claimant participated personally. Employer participated by Bill Sanders, Talx Hearing Representative and witness Jeff Brandon, PM Operations Manager Cedar Rapids. Exhibits A and B 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 went off work due to a non-work-related injury January 19, 2009. Claimant was released to return to work March 30, 2009. Employer offered claimant 16 hours of work for the week ending April 11, 2009 which was below her average of 22.5 hours per week. Claimant was available to work her normal 22.5 hours. Employer gave claimant her normal hours after April 11, 2009.

REASONING AND CONCLUSIONS OF LAW:

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".

Inasmuch as the injury was not work-related and the treating physician has released the claimant to return to work, the claimant has established the ability to work. Benefits shall be allowed effective the week ending April 11, 2009.

DECISION:

The decision of the representative dated May 28, 2009, reference 01, is affirmed. Claimant is eligible to receive unemployment insurance benefits, effective April 5, 2009, provided claimant meets all other eligibility requirements.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs