

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KARI A GREEN
Claimant

APPEAL NO. 13A-UI-13806-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

THOMAS L CARDELLA & ASSOCIATES INC
Employer

OC: 09/15/13
Claimant: Appellant (4)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated December 12, 2013, reference 03, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a telephone hearing was held on January 9, 2013. The claimant participated personally. The employer participated by Miranda Smith, Administration. Barb Tony served as the hearing representative. The record consists of the testimony of Kari Green; the testimony Miranda Smith; and Claimant's Exhibit A.

ISSUE:

Whether the claimant was able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses 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 with an original claim date of September 15, 2013. The claimant was separated from her employment for a non-disqualifying reason on September 19, 2013. The claimant had suffered a pulmonary embolism and was off work through September 3, 2013. She was returned to work without restriction on September 5, 2013. The claimant was of work again on September 12, 2013; September 14, 2013; September 17, 2013; September 18, 2013; and September 19, 2013. The claimant does not have any current physical restrictions and is actively looking for work.

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 claimant is able and available for work effective September 20, 2013. The evidence in this case established that she is physically capable of working without restrictions and is actively looking for work.

DECISION:

The decision of the representative dated December 12, 2013, reference 03, is modified in favor of the appellant. The claimant is able and available for work on September 20, 2013.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css