

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LINDA R HAWKINS**  
Claimant

**ADEL HEALTHCARE MANAGEMENT LLC**  
Employer

**APPEAL 17A-UI-07139-JP-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/11/17  
Claimant: Respondent (1)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

The employer filed an appeal from the July 7, 2017, (reference 02) unemployment insurance decision that allowed benefits beginning June 11, 2017. The parties were properly notified about the hearing. A telephone hearing was held on August 1, 2017. Claimant participated. Daniel Hawkins participated on claimant's behalf. Employer participated through human resources generalist Cathy Barnett. Human resources generalist Caitlin McCracken observed the hearing on the employer's behalf.

Claimant Exhibits A, B, C, D, E, F, G, H, I, J, K, L, M, N, P, Q, R, and S were admitted into evidence with no objection. Claimant Exhibit O was offered into evidence. The employer objected to Claimant Exhibit O because it is a typed statement from text messages and is not a screen shot of the text messages. The employer's objection was overruled and Claimant Exhibit O was admitted into evidence. Official notice was taken of the administrative record, including claimant's benefit history, claimant's wage history, and claimant's weekly continued claims history, with no objection.

**ISSUE:**

Is the claimant able to work and available for work effective June 11, 2017?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as a licensed practical nurse (LPN) from May 21, 2015, and was separated from employment on June 9, 2017, when she quit.

Since claimant was hired in May 2015, she worked 8-hour shifts the majority of the time, including from March 2017 until her separation. Claimant's last two shifts in June 2017 were 8-hour shifts. Claimant was separated from employment effective June 9, 2017. Claimant is unable to work 12-hour shifts because of her back, but is able to work 8-hour shifts.

Since claimant filed a claim for benefits with an effective date of June 11, 2017, she has been making at least two job contacts per week. On July 10, 2017, claimant visited with her doctor. Claimant's doctor advised her not to lift, pull, or push over twenty pounds. Claimant testified she can still perform work as an LPN.

**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 effective June 11, 2017.

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".

Iowa Admin. Code r. 871-24.22(2) 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.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. Although claimant was separated from employment effective June 9, 2017, she credibly testified that she is able to work 8-hour shifts like she has in the past. Claimant has been making at least two job contacts per week. Claimant has established she is able to work and available for work effective June 11, 2017. Accordingly, benefits are allowed.

**DECISION:**

The July 7, 2017, (reference 02) unemployment insurance decision is affirmed. Claimant is able to work and available for work effective June 11, 2017. Benefits are allowed.

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Jeremy Peterson  
Administrative Law Judge

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Decision Dated and Mailed

jp/rvs

**NOTE TO EMPLOYER:**

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<https://www.myiowauui.org/UITIPTaxWeb/>.

Helpful information about using this site may be found at:

<http://www.iowaworkforce.org/ui/uiemployers.htm> and

<http://www.youtube.com/watch?v= mpCM8FGQoY>