

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ISABELLA L THOMPSON
Claimant

APPEAL 14A-UI-03415-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/02/14
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 26, 2014, (reference 03) unemployment insurance decision that denied benefits based upon not being able to perform work. The party was properly notified about the telephone hearing was held on April 21, 2014. Claimant participated with former coworker, Darcell Dion Groce.

ISSUES:

Is the claimant able to and available for work effective March 2, 2014?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant injured her left shoulder (between neck and shoulder, caused stabbing pain in the mid-back when getting up from prone position) on February 16, 2014. The work-relatedness of the injury is disputed. On February 17, she was not scheduled and went to Dr. Archer at Trimark Buena Vista Clinic who said she could return to work on February 18 with restrictions allowing her to push, pull, carry and lift 10 pounds frequently, 20 pounds occasionally, and 30 pounds maximum. He suggested a follow-up visit in two weeks. (Employer's Exhibit 2) She did not see a doctor after February 17, and was unable to work due to back pain until she reported, ready to work on March 5 (she was not scheduled March 3 and 4) and found out she had been fired. She had regular transportation to that job with Groce, which was a 25 minute one-way commute from her home in Storm Lake.

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 March 2, 2014.

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".

Since the employment ended on February 28, 2014, claimant was no longer obligated to return to employer upon her medical release to offer her services. At that point, her ability to work is not measured by the job she held most recently, but by standards of her education, training, and work history. Since her restrictions were in place for two weeks from February 17, 2014, she is considered able to work effective March 3, 2014.

Since she had been able to find regular transportation to a job 25 minutes from home, she must arrange for transportation to work in the area where she is searching for work. Claimant is on notice that she must conduct at least two work searches per week and file weekly continued claims in order to retain eligibility for benefits.

DECISION:

The representative's decision dated March 26, 2014, (reference 03) is reversed. The claimant is able to work and available for work effective March 2, 2014. Benefits are allowed, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css