

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TASHA N WEBB**  
Claimant

**APPEAL NO. 13A-UI-03636-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DILLARD'S INC**  
Employer

**OC: 02/17/13**  
**Claimant: Respondent (4/R)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Dillard's (employer) appealed a representative's March 20, 2013 decision (reference 02) that concluded Tasha Webb (claimant) was discharged and there was no evidence of willful or deliberate misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 29, 2013. The claimant participated personally. The employer participated by Kay Byers, Assistant Store Manager. The employer offered and Exhibit One was received into evidence.

**ISSUE:**

The issue is whether the claimant is available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from June 27, 2012, to March 16, 2013. The claimant was hired as a full-time sales associate. She was properly reported absences due to illness so frequently that in February 2013, the employer considered her to be a part-time employee. The claimant called in sick for a partial or full day on January 11, 12, 13, 14, 15, 16, 17, 26, 27, February 10, and 24, 2013. The claimant filed for unemployment insurance benefits with an effective date of February 17, 2013.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is not eligible to receive unemployment insurance benefits for the week ending February 23, 2013.

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 ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant was sick and unable to work. She is considered to be unavailable for work from February 17 through February 23, 2013. The claimant is disqualified from receiving unemployment insurance benefits that one week, due to her unavailability for work. After that week there was no evidence that the claimant was ill or unable to work. The claimant is able and available to work as of February 24, 2013.

The issue of the claimant's separation from employment is remanded for determination.

**DECISION:**

The representative's March 20, 2013 decision (reference 02) is modified in favor of the appellant. The claimant is disqualified from receiving unemployment insurance benefits from February 17 through February 23, 2013, because she was not available for work with the employer. The claimant is able and available to work as of February 24, 2013. The issue of the claimant's separation from employment is remanded for determination.

---

Beth A. Scheetz  
Administrative Law Judge

---

Decision Dated and Mailed

bas/css