

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MICHELLE L SCHUSTER**  
Claimant

**LISLE CORPORATION**  
Employer

**APPEAL 18A-UI-11843-AW**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/11/18  
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Eligibility – A & A – Able to and available for work  
Iowa Admin. Code r. 871-24.22 – Eligibility – A & A

**STATEMENT OF THE CASE:**

Michelle Schuster, Claimant, filed an appeal from the November 29, 2018 (reference 02) unemployment insurance decision that found she was not able to perform work at the time. The parties were properly notified of the hearing. A hearing was held in Creston, Iowa on January 25, 2019 at 10:05 a.m. Claimant participated. Employer participated through Tracy Roush, Human Resources Manager. Claimant's Exhibits A and B were admitted. Employer's Exhibits 1 – 15 were admitted.

**ISSUE:**

Whether claimant is able to and available for work.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: On September 19, 2018, claimant's physician recommended that claimant remain out of work continuously for a period of six weeks from Monday, September 17, 2018 until Sunday, October 28, 2018. (Exhibit 6) On December 5, 2018, claimant's physician stated that claimant was able to return to work on November 9, 2018 without any restrictions. (Exhibit A) Since November 9, 2018, claimant has remained in the Clarinda, Iowa area, has had transportation to and from work, and had no other impediments to employment. (Claimant Testimony)

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant has been able to and available for work since November 9, 2018.

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 . . . [t]he individual is able to work, is available for work, and is earnestly and actively seeking work."

Iowa Admin Code r. 871-24.22 provides:

Benefit 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.

(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.

Claimant has established that she has been able to and available for work since November 9, 2018.

**DECISION:**

The November 29, 2018 (reference 02) unemployment insurance decision is modified in favor of the appellant. Benefits are allowed effective November 11, 2018, provided claimant is otherwise eligible.

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Adrienne C. Williamson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, IA 50319-0209  
Fax: 515-478-3528

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Decision Dated and Mailed

acw/rvs