

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRACY D WATTERSON
Claimant

SWIFT PORK COMPANY
Employer

APPEAL 17A-UI-07805-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/09/17
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 31, 2017 (reference 03) unemployment insurance decision that denied benefits based upon a determination that claimant was medically unable to work. The parties were properly notified of the hearing. A telephone hearing was held on August 18, 2017. The claimant, Tracy D. Watterson, participated. The employer, Swift Pork Company, did not register a telephone number at which to be reached and did not participate in the hearing. Claimant's Exhibit A was received and admitted into the record.

ISSUE:

Is the claimant able to work and available for work effective July 9, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a tender stripper, beginning December 5, 2016. Claimant was discharged from her job because she could not work on the line any longer, as her blood pressure was causing issues and she needed to work at a slow pace. Claimant submitted a note from her doctor attesting to this. (Exhibit A) Since separating from the employer, claimant has been looking for a variety of jobs. She has telemarketing experience, and she has applied for telemarketing jobs. Claimant has also applied for work as a bank teller. Additionally, claimant has applied for fast food jobs, as she has fast food management experience and she believes the pace of that work would suit her medical condition.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is able to work and available for work effective July 9, 2017.

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".

Iowa Admin. Code r. 871-24.22(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.

Claimant has provided sufficient evidence demonstrating she is able to work and available for work. She is currently looking for jobs that suit her medical restriction. Benefits are allowed, provided she is otherwise eligible.

DECISION:

The July 31, 2017 (reference 03) unemployment insurance decision is reversed. Claimant is able to work and available for work effective July 9, 2017. Benefits are allowed, provided claimant is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/rvs