

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VALERIE K JONES
Claimant

APPEAL NO. 14A-UI-02768-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

ABCM CORPORATION
Employer

OC: 02/02/14
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated March 5, 2014, reference 01, which held that the claimant was ineligible for unemployment insurance benefits from February 2, 2014 to February 22, 2014. After due notice, a hearing was held on April 3, 2014, by telephone conference call. The claimant participated personally. Employer participated by Mary Tirevold, Administrator. The record consists of the testimony of Valerie Jones; the testimony of Mary Tirevold; and Claimant's Exhibit A.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a long-term facility known as Valley View Care Center. The claimant worked as a full time dietary cook. On November 16, 2013, to February 5, 2014, she was off work due to personally illness. (Exhibit A) She returned to work part time on February 5, 2014, and worked four hours per day until February 22, 2014. She then returned to full-time hours. The claimant is seeking partial unemployment insurance benefits for the time that she had to work reduced hours based on her physician's advice.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 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.

The claimant is not eligible for unemployment insurance benefits from February 5, 2014, through February 21, 2014. The claimant was not able and available for work. Her doctor wanted her to work part time only to build up her strength. Unemployment insurance benefits are not a substitute for disability benefits. Claimants must be able and available for work and the claimant was not during this period based on the statement from her physician. Benefits are denied.

DECISION:

The decision of the representative dated March 5, 2014, reference 01, is affirmed. Unemployment insurance benefits are denied from February 2, 2014, through February 21, 2014.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css