

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALYSIA M FREES**  
Claimant

**APPEAL NO. 13A-UI-03481-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 02/10/13**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available  
871 IAC 24.23(1) – Unable to Work/Illness or Injury

**STATEMENT OF THE CASE:**

The claimant appealed from a representative's decision dated March 15, 2013, reference 05, that held she was not eligible for benefits February 10, 2013 as she was unable to perform work due to injury. A hearing was scheduled for April 23, 2013. The claimant did not participate.

**ISSUE:**

The issue is whether claimant is able and available to work.

**FINDINGS OF FACT:**

The administrative law judge having considered the evidence in the record finds that: The claimant filed a UI claim effective February 10, 2013. Claimant suffered an injury but began physical therapy in early February. She was unable to perform her regular work as a C.N.A. or bartender at that time. She is restricted to light duty jobs and is looking for this type of work while in therapy.

The department record shows she reported some wages for the weeks ending February 16 and 23, and quit claiming the week ending March 16.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 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".

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.

The administrative law judge concludes claimant is not able and available to perform unrestricted work due to a light duty restriction and physical therapy for an injury and benefits are denied effective February 10, 2013.

While claimant might be able to perform some work, the light duty restriction does not allow her to perform work to the same extent before injury. Once she has received an "unrestricted" work release for her normal job duties she may provide this medical release to the department and become eligible for UI benefits.

**DECISION:**

The decision of the representative dated March 15, 2013, reference 05, is affirmed. The claimant is not currently able and available for work and benefits are denied.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/tll