

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DESIREE A CRAVER**  
Claimant

**APPEAL NO. 15A-UI-06433-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LEE CONTAINER IOWA LLC**  
Employer

**OC: 05/10/15**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated June 1, 2015, reference 01, which denied unemployment insurance benefits as of May 10, 2015, finding that the claimant was not able to perform work and, therefore, did not meet the availability requirements of the law. After due notice was provided, a telephone hearing was held on July 14, 2015. Claimant participated. The employer participated by Ms. Clair Cleaver, Human Resource Coordinator and Mr. Bobby McDaniel, Production Superintendent.

**ISSUE:**

The issue is whether the claimant is able and available for work within the meaning of the Iowa Employment Security Law.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Desiree Craver began employment with Lee Container Iowa LLC on March 27, 2012. Ms. Craver was hired to work as a full-time production line worker and was paid by the hour. Ms. Craver's last day of work was April 29, 2015.

On April 29, 2015, Ms. Craver left work early for a doctor's appointment. Ms. Craver submitted a doctor's statement to the employer stating a lifting limitation of 35 pounds due to pregnancy. Because the Doctor's statement limited the claimant from performing essential duties of her job and the limitation was not due to a work-related illness or injury, the employer did not allow the claimant to continue to work as a production worker. When the doctor's lifting limitation is removed, the claimant may resume her employment. Company policy provides that employees must be free from any work limitations caused by non-employment illness or injury.

**REASONING AND CONCLUSIONS OF LAW:**

The evidence in the record does not indicate that Ms. Craver was discharged, but that the claimant was placed in a type of leave of absence status until she is fully released and able to return to work following the birth of her child. During a leave of absence that is initiated with the consent of the parties, is deemed a period of voluntarily unemployment for the employee and the individual is not eligible for unemployment benefits. 871 IAC 24.22(2)(j).

The next question is whether the evidence in the record establishes that Ms. Craver has been able and available for work since establishing her claim for benefits. An otherwise eligible claimant is eligible to receive benefits with respect to any week only if the evidence indicates that the individual is able to work, is available for work and is earnestly and actively seeking work. Iowa Code section 96.4(3) and 871 IAC 24.22. The claimant bears the burden of establishing the claimant meets the above requirements. To satisfy the able requirement, the individual must be physically and mentally able to work. The claimant is attached to this employer and expects to return to work after the birth of her child and being released by her physician. With regard to illness, injury or pregnancy, each case is decided on an individual basis. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A statement is therefore legally sufficient to establish the claimant's physical ability unless disproved by other evidence. 871 IAC 24.22(1)(a).

In the case at hand the evidence establishes that Ms. Craver was determined by her physician not able to work unless the employer was willing to waive customary lifting requirements associated with her position as a production worker.

For the above-stated reasons, the administrative law judge concludes that the evidence in the record establishes the claimant is not able and available within the meaning of the law. Accordingly, the claimant is ineligible to receive unemployment insurance benefits until the limitations are removed by the claimant's physician and the claimant is able and available for work. Benefits are denied effective May 10, 2015.

**DECISION:**

The representative's decision dated June 1, 2015, reference 01, is affirmed. Claimant is ineligible to receive unemployment insurance benefits as of May 10, 2015. Claimant is not able to perform work and does not meet the availability requirements of the law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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