

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SARA S STROUGH**  
Claimant

**APPEAL NO: 13A-UI-13186-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CLEARVIEW HOMES**  
Employer

**OC: 11/25/12  
Claimant: Respondent (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's November 21, 2013 determination (reference 04) that held the claimant eligible to receive benefits as of November 17, 2013, because she had been medically released to work. The claimant did not respond to the hearing notice or participate at the December 18, 2013 hearing. Patricia Parrish, the owner, and Susie Nelson appeared on the employer's behalf. The employer appealed the November 21 determination because the claimant did not work available hours on November 30, 2013. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is eligible to receive benefits for the week ending November 30, 2013.

**ISSUE:**

Was the claimant able to and available for work during the week ending November 30, 2013?

**FINDINGS OF FACT:**

The claimant works for the employer but was on a leave of absence prior to November 17, 2013. When the claimant's physician released her to return to work on November 17, 2013, the employer did not have any hours available for the claimant to work. The employer then placed the claimant on PRN status or would call her to work on an on-call, as-needed basis.

On November 30, the employer called the claimant to work a 2:30 to 11 p.m. shift. The claimant initially indicated she would work this shift. A couple of hours later, the claimant contacted the employer to let the employer know she could not work this shift because she could not find a babysitter.

The claimant reopened her claim for benefits during the week of November 17, 2013. She filed a claim for benefits for the week ending November 30, 2013.

**REASONING AND CONCLUSIONS OF LAW:**

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4(3). The law presumes a claimant is not eligible to receive benefits when she fails to work the major portion of a scheduled workweek for her regular employer. 871 IAC 24.23(29). Since the employer only asked the claimant to work one day, November 30, and the claimant was unable to find childcare on short notice, she is not ineligible to receive benefits for the week ending November 30, 2013.

**DECISION:**

The representative's November 21, 2013 determination (reference 04) is affirmed. The employer does not dispute that the claimant has been released to work by her physician. Even though the claimant was unable to work on November 30, being unable to arrange childcare on short notice does not make the claimant ineligible to receive benefits for the week ending November 30, 2013. The claimant remains eligible to receive benefits as of November 17, 2013, and she is eligible to receive benefits for the week ending November 30, 2013.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs