

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LENA M WRIGHT**  
Claimant

**APPEAL NO. 08A-UI-06036-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KELLY SERVICES INC**  
Employer

**OC: 04/20/08 R: 02**  
**Claimant: Appellant (3)**

Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 25, 2008, reference 01, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on July 16, 2008. The claimant participated personally. The employer participated through Jessica Fedders, Staffing Supervisor, and Alissa Finch, Senior Staffing Supervisor.

**ISSUE:**

The issue is whether the claimant was able and available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 28, 2006, as a full-time temporary clerk 1 assigned to work at EDS. The claimant was laid off for lack of work on April 22, 2008. After April 22, 2008, the claimant was not able or available for work due to medical issues. The employer offered the claimant suitable work on May 29, 2008, which the claimant refused due to medical problems. She had surgery on June 20, 2008, and remains unable to work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant is not able and available for work. Before a claimant can be disqualified from receiving unemployment insurance benefits for refusing an offer of suitable work, the claimant must be able and available for work. 871 IAC 24.24(4).

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.

When an employee is ill and unable to perform work due to that illness she is considered be unavailable for work. The claimant has been ill and unable to work since April 22, 2008. She is considered to be unavailable for work after April 22, 2008. The claimant is disqualified from receiving unemployment insurance benefits beginning April 22, 2008, due to her unavailability for work.

**DECISION:**

The June 25, 2008, reference 01, representative's decision is modified in favor of the respondent. The claimant is disqualified from receiving unemployment insurance benefits because she is not available for work with the employer.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs