

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICIA A SCHOLTUS
Claimant

APPEAL NO. 09A-UI-11310-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

**Original Claim: 06/14/09
Claimant: Appellant (1)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Patricia Scholtus filed an appeal from a representative's decision dated July 28, 2009, reference 01, which denied benefits effective June 14, 2009 on a finding that she was on a leave of absence. After due notice was issued, a hearing was held by telephone on August 25, 2009. Ms. Scholtus participated personally. The employer opted not to participate.

ISSUE:

At issue in this matter is whether Ms. Scholtus is eligible to receive job insurance benefits on her claim filed effective June 14, 2009.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Scholtus began working for Care Initiatives on July 21, 1999. She was a full-time certified nursing assistant (CNA). She left work on April 18, 2009 because of an injury suffered away from work. She twisted her right knee and fell, resulting in an injury that eventually required surgery to repair torn cartilage.

Ms. Scholtus was released to light duty on June 17, 2009. She was not to lift more than ten pounds and was to avoid twisting. The restrictions prevented her from performing her normal job as a CNA. She was told she could return to work when she obtained a complete release. Ms. Scholtus saw her doctor on June 24 and was released to resume full duties as of July 1. She returned to work for Care Initiatives on July 1 and has been working full time since that date.

REASONING AND CONCLUSIONS OF LAW:

In order to receive job insurance benefits, an individual must be able to and available for work. Iowa Code section 96.4(3). When Ms. Scholtus filed her claim for job insurance benefits effective June 14, 2009, she was unable to perform her normal job because of an injury that was not work-related. An individual who is on a leave of absence is not considered available for

work within the meaning of the law. 871 IAC 24.23(10). As such, Ms. Scholtus was not eligible for benefits effective June 14, 2009.

Ms. Scholtus returned to full-time work on July 1 and has been working full-time since that point. Because she is no longer in the labor market due to her full-time employment, she is not eligible for benefits as of July 1, 2009. See 871 IAC 24.23(23).

For the reasons stated herein, the administrative law judge concludes that Ms. Scholtus has not satisfied the availability requirements of the law at any point since filing her claim effective June 14, 2009. As such, benefits are denied.

DECISION:

The representative's decision dated July 28, 2009, reference 01, is hereby affirmed. Ms. Scholtus is not entitled to job insurance benefits on her claim filed effective June 14, 2009, as she has not satisfied the availability requirements of the law.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw