

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TONYA K FINDLAY**  
Claimant

**APPEAL NO: 14A-UI-12324-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 11/17/13  
Claimant: Appellant (2)**

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

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's November 18, 2014 determination (reference 04) that held her ineligible to receive benefits as of November 17, 2013, because her physician indicated she was not able to work. The claimant participated at the December 17 hearing. The employer did not respond to the hearing notice or participate at the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is able to and available for work as of October 12, 2014.

**ISSUE:**

As of October 12, 2014, is the claimant able to and available for work and eligible to receive benefits?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of November 17, 2013. After the claimant had surgery in December 2013, her physician released her to work with restrictions on September 30, 2014. The claimant's physician restricted her from frequently lifting 10 pounds and limited her to occasionally lifting 15 pounds. The claimant was released to do light-duty work.

When the claimant worked for the employer, her job included taking steel frames down or off hooks and lifting up to 75 pounds. After her December 2013 surgery the employer sometimes had office work for the claimant to do. The claimant has no other office work experience.

With her light-duty work restrictions, the claimant started looking for full-time work as a cashier. The claimant filed an additional claim the week of October 12, 2014. She has work experience as a cashier. The claimant does not have a vehicle and relies on a friend for transportation.

**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 available for work when she is not

willing to accept work in her usual occupation and fails to establish what other types of work she can perform. 871 IAC 24.23(19).

The claimant established she has work experience as a cashier and is looking for full-time work as a cashier. Since the claimant is not looking for a tailor-made job and is looking for meaningful employment, she established that she is able to and available for work as of October 12, 2014.

**DECISION:**

The representative's November 18, 2014 determination (reference 04) is reversed. As of October 12, 2014, the claimant is able to and available for work. The claimant is eligible to receive benefits as of October 12, 2014, provided she meets all other eligibility requirements.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css