

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BETTY I SIX
Claimant

APPEAL NO: 06A-UI-09176-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/20/06 R: 03
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Betty Six (claimant) appealed a representative's September 13, 2006 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she was not willing to work in her usual occupation and has failed to establish another type of work the claimant could perform. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on September 27, 2006. The claimant participated personally.

ISSUE:

The issue is whether the claimant is 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 separated from employment by a work-related injury. Her activity is restricted but she could work as a sales clerk or a receptionist, among other types of work.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able and available for work.

871 IAC 24.23(18) and 19) provide:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

(19) Availability for work is unduly limited because the claimant is not willing to accept work in such claimant's usual occupation and has failed to establish what other types of work that can and will be performed at the wages most commonly paid in the claimant's locality.

When an employee is unable to perform work due in her usual occupation and does not establish another type of work she can perform, she is considered to be unavailable for work. The claimant is unable to handle her usual work because of medical restrictions but she is able to function as a sales person or a receptionist and stay within her restrictions. She is considered to be available for work. The claimant is not disqualified from receiving unemployment insurance benefits.

DECISION:

The representative's September 13, 2006 decision (reference 02) is reversed. The claimant is not disqualified from receiving unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/cs