

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TINA GUNN**

Claimant

**APPEAL NO: 16A-UI-07000-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DOLLAR TREE STORES INC**

Employer

**OC: 04/10/16**

**Claimant: Appellant (4)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Tina Gunn (claimant) appealed a representative's June 21, 2016, decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work for Dollar Tree Stores (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 12, 2016. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The claimant offered and Exhibit A was received into evidence.

**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 worked for the employer from November 2014, to February 24, 2016. She was hospitalized from February 24, 2016, to June 30, 2016, for a non-work-related kidney infection. She filed for unemployment insurance benefits with an effective date of April 10, 2016. Her physician released her to return to work without restrictions on July 8, 2016.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits as of July 10, 2016, provided she is otherwise eligible.

Iowa Admin. Code r. 871-24.23(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 to be unavailable for work. The claimant was in the hospital from February 24, 2016, to June 30, 2016. She is considered to be unavailable for work from February 24, 2016, to June 30, 2016. The claimant was released to return to work without restrictions by her physician on July 8, 2016. She is considered to be available for work as of July 10, 2016, because her physician released her to return to work. Benefits are allowed as of July 10, 2016, provided claimant is otherwise eligible.

**DECISION:**

The representative's June 21, 2016, decision (reference 03) is modified in favor of the appellant. Benefits are allowed as of July 10, 2016, provided claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs