

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE D JOHNSON
Claimant

APPEAL NO. 08A-UI-04431-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 04/06/08 R: 03
Claimant: Appellant (2)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Julie Johnson filed an appeal from a representative's decision dated April 28, 2008, reference 02, which held her not eligible to receive unemployment insurance benefits effective April 6, 2008, finding the claimant was not able to perform work. After due notice was issued, a hearing was held by telephone on May 22, 2008. Ms. Johnson participated personally. The employer participated by Tim Speir, hearing representative, and witnesses Dan Stream, kitchen manager, and Dwight Hoch, store director. .

ISSUE:

The issue in this matter is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant was separated from her most recent employment with Hy-Vee, Inc., on or about March 16, 2008, after she had failed to report to work. The claimant indicated at that time that she was unable to perform work for an approximate one-week period because her medication was being adjusted for a psychological disorder. After the claimant's medication was adjusted, the claimant began to seek work with prospective employers by personally contacting them for employment, and the claimant's medical/psychological issues that prevented the claimant from seeking work for a limited period of time were resolved.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence establishes that the claimant is able and available for work. It does.

The evidence in the record establishes that although Ms. Johnson may have been temporarily unable to work due to a medical/psychological issue, the matter was resolved and the claimant has been actively and earnestly seeking work by contacting prospective employers each week that she has claimed benefits.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

For the reasons stated herein, the administrative law judge concludes that the claimant is able to work and thus eligible to receive unemployment insurance benefits, provided she meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated April 28, 2008, reference 02, is hereby reversed. The claimant is able to work. Unemployment insurance benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw