

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RHONDA L BROOKING**  
Claimant

**APPEAL NO: 06A-UI-08597-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MC 3619 INC**  
**BONANZA STEAKHOUSE #619**  
Employer

**OC: 07/30/06 R: 02**  
**Claimant: Respondent (1)**

Section 96.4-3 - Able and Available

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated August 18, 2006, reference 01, which held claimant able and available for work. After due notice, a telephone conference hearing was scheduled for and held on September 12, 2006. Claimant participated personally. Employer participated by Don Sills, Director of Operations. Exhibit One was admitted into evidence.

**ISSUE:**

The issue in this matter is whether 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: Claimant went off work due to illness. In her absence claimant was taken off the schedule. Claimant returned to ask for work after the illness effective July 16, 2006. Claimant's schedule had been filled for about ten days. Claimant was eventually placed back on the schedule at her regular hours.

**REASONING AND CONCLUSIONS OF LAW:**

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".

Inasmuch as the illness was not work-related and the treating physician has released the claimant to return to work, the claimant has established the ability to work. Benefits shall be allowed effective July 30, 2006 as claimant was capable of full time work and employer had taken her off the schedule. The reduction in work hours was caused by employer removing claimant from the schedule due to illness. Benefits allowed.

**DECISION:**

The decision of the representative dated August 18 2006, reference 01 is affirmed. Claimant is eligible to receive unemployment insurance benefits, effective July 30, 2006, provided claimant meets all other eligibility requirements.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/pjs