

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELISSA J MCKASSON**  
Claimant

**APPEAL NO. 11A-UI-14865-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEMP ASSOCIATES**  
Employer

**OC: 10/16/11**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available  
871 IAC 24.23(6) – Unable to Work/Pregnancy

**STATEMENT OF THE CASE:**

The claimant appealed from a representative's decision dated November 9, 2011, reference 01, that held she was unable to work due to pregnancy effective October 16, 2011, and benefits are denied. A hearing was held on December 13, 2011. The claimant participated. Jenny McNeil, Account Manager, participated for the employer.

**ISSUE:**

The issue is whether claimant is able and available to work.

**FINDINGS OF FACT:**

The administrative law judge having witness testimony and having considered the evidence in the record, finds that: The claimant began working a full-time assignment on August 15, 2011. She worked 40-hours or more as an assembly/production employee at Snyder-Lance Private Brands. She was required to lift up to 35 pounds.

Claimant last worked on October 18. She provided a doctor's noted she was pregnant with restrictions not to work more than 40-hours a week and no lifting more than 25 pounds. Given the restrictions, Lance Private Brands, could not allow claimant to continue work that was communicated to the claimant by the employer. Claimant was advised there was no other work available though she was considered an employee in good standing who could return to work once the restrictions were removed.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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".

The administrative law judge concludes the claimant is not able and available for full-time employment due to pregnancy related work restrictions, and benefits are denied. The law section 871 IAC 23.24(6) imposes an availability disqualification where leaving employment is due to pregnancy where work restrictions are imposed.

The claimant's employment separation is not a lay-off but it is due to her pregnancy that has work restrictions, which preclude her from doing her job. The claimant is not able and available for a return to work until she is released to do so by her doctor without restriction.

**DECISION:**

The decision of the representative dated November 9, 2011, reference 01, is affirmed. The claimant is not eligible for benefits as she is not able and available for work.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs