

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
<b>FELICIA WILSON</b> Claimant	<b>APPEAL NO: 18A-UI-06603-JE-T</b>
<b>CITY OF AMES</b> Employer	<b>ADMINISTRATIVE LAW JUDGE DECISION</b>
	<b>OC: 05/13/18</b> <b>Claimant: Appellant (1)</b>

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 11, 2018, reference 02, decision that determined she was not able and available for work and denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 3, 2018. The claimant participated in the hearing. Krista Hammer, Human Resources Officer II and Barb Neal, Assistant Director of CyRide Operation, participated in the hearing on behalf of the employer.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a part-time CyRide transit driver for the City of Ames April 30, 2012. On May 14, 2018, the claimant notified the employer she could not drive for six months because she suffered a seizure. She spoke to the employer about disability or unemployment. The employer did not know at that time the claimant wanted an accommodation and to continue working in some capacity. She had a similar incident in 2014 and took a medical leave of absence and the employer believed the claimant planned to follow that course after this medical episode as well. On May 15, 2018, the claimant told the employer she did not want to go on a medical leave but instead wanted zero hours so she could look for other jobs. On May 22, 2018, the claimant emailed the employer asking her status and for an accommodation. The employer asked the claimant to provide a doctor's note and the employer received the note stating the claimant could not drive for six months later that day. On May 31, 2018, the claimant met with human resources and her supervisor and the employer stated it would look at modified work for the claimant. On June 11, 2018, the employer offered the claimant modified duty performing office work and cleaning buses for 20 hours per week and the claimant accepted that position. She would have received 20 hours per week during the summer if she had been able to drive.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work

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 employer is not required to accommodate a non-work related medical condition. In this case, the claimant asked for an accommodation and when the employer could reasonably provide such accommodation, it allowed the claimant to return to work and perform clerical and cleaning duties. Because the claimant was still attached to this employer, and was unable to perform the essential functions of her transit driver position, she is not considered able and available for work. Accordingly, benefits are denied until the week ending June 16, 2018, when the claimant returned to part-time, light-duty work for the employer.

**DECISION:**

The June 11, 2018, reference 02, decision is affirmed. The claimant is not able to work and available for work effective May 13, 2018 through the week ending June 16, 2018. Benefits are denied.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn