

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHAWNTELLE M PAGE
Claimant

APPEAL NO. 11A-UI-04142-PT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NF FOODS LLC
Employer

**OC: 03/06/11
Claimant: Appellant (4)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 31, 2011, reference 04, which held claimant was not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on April 26, 2011. Claimant participated personally. Employer participated by Bob Kimball, store director.

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 underwent surgery on February 14, 2011 for a non-work-related condition. She was released to work two weeks later without restrictions. She was not able to return to work for the employer because she was terminated.

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".

Claimant has established that she is able and available for work effective March 6, 2011 which is the beginning of her benefit year. Benefits shall be allowed effective March 6, 2011.

DECISION:

The decision of the representative dated March 31, 2011, reference 04 is modified favorably to the claimant. Claimant is eligible to receive unemployment insurance benefits, effective March 6, 2011, provided claimant meets all other eligibility requirements.

Ron Pohlman
Administrative Law Judge

Decision Dated and Mailed

rrp/pjs