

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GENEVA M DEANS**  
Claimant

**APPEAL NO. 13A-UI-07147-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 05/12/13**  
**Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 10, 2013, (reference 02) unemployment insurance decision that denied benefits. After due notice was issued a hearing was held on July 30, 2013. Claimant participated. Claimant's Exhibit A was entered and received into the record.

**ISSUE:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant stopped driving a truck because she hurt her back. Her injury has not been accepted by her former employer's workers' compensation carrier. She has been a truck driver since 1995. She is no longer able to drive a truck because she has lost her commercial driver's license due to her health issues. In the past twenty years the claimant has worked primarily as a truck driver. She has work restrictions that include no standing over twenty minutes, no lifting over fifteen pounds and no repetitive climbing in and out of trucks. She is interested in advertising but has no background in that type of work. She has applied for social security disability benefits indicating she does not believe due to her back and health problems she is able to work currently.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

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".

871 IAC 24.22(1)a, (2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

The administrative law judge is not persuaded that the claimant is actually able to work in any gainful type of employment based upon her current work restrictions, her own work history and background and the fact that she is seeking social security disability benefits. The claimant is not currently able to and available for work. Accordingly, benefits are denied.

**DECISION:**

The June 10, 2013 (reference 02) decision is affirmed. The claimant is not able to work and available for work effective May 12, 2013. Benefits are denied.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs