

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
LAURA GOFF Claimant	APPEAL NO: 09A-UI-02656-ET
WAL-MART STORES INC Employer	ADMINISTRATIVE LAW JUDGE DECISION
	OC: 12-21-08 Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 10, 2009, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 16, 2009. The claimant participated in the hearing. Luke Miller, Assistant Manager, 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: On September 11, 2008, the claimant was leaving work after clocking out and was startled by a dog jumping toward her from the back of a truck in the parking lot. In an effort to get away she stumbled and fell on her right arm. She returned to the store and reported the incident and was told she would have to complete the form as a customer because she was not on the clock. On November 4, 2008, her physician told her she tore her right rotator cuff and could not use her right arm. The employer would not allow her to return to work with restrictions. On March 10, 2009, she received a full release to return to work but has not gone back to the employer to notify it she had been released without restriction.

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 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".

The claimant received a full medical release without restriction from her treating physician effective March 10, 2009. Accordingly, benefits are allowed beginning the week ending March 14, 2009.

DECISION:

The February 10, 2009, reference 03, decision is reversed. The claimant is able to work and available for work effective March 10, 2009. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs