

FINDINGS OF FACT:

The claimant was working for the employer as a certified nursing assistant. The claimant suffered an injury and went on medical leave as of October 31, 2004. The claimant established a claim for unemployment insurance benefits during the week of November 7, 2004. A decision held the claimant ineligible to receive benefits as of November 7, 2004, because she was unable to work as a result of an injury. Neither party appealed this decision.

The employer sent the claimant a letter on February 7, 2005. The letter informed the claimant her employment had been terminated. The claimant's doctor had not released the claimant to return to work when she received the employer's letter.

The claimant's doctor did not release the claimant to return to work until September 19, 2005. The only work restriction the claimant has is that her doctor does not want her to repeatedly lift over her shoulder and the claimant is not to do any awkward lifting. The claimant does not have weight restrictions.

The claimant contacted the employer's director of nursing the week of September 25, 2005, and asked if there was any position for the claimant. The claimant understood the employer was not hiring at that time.

The claimant has been looking for cashier-type jobs since she has been released to work. The claimant has not contacted any other nursing facilities about a job. The claimant reopened her claim during the week of September 25, 2005.

REASONING AND CONCLUSIONS OF LAW:

Each week a claim files a claim; she must be able to and available for work. Iowa Code § 96.4-3. The facts establish the claimant is able to and available for work after her doctor released her to work as of September 19, 2005. Even though a claimant is not required to perform her previous job, she must be looking for work that would provide employment for which she is capable of performing. The claimant demonstrated she is looking for work in which she is capable of doing and has not restricted her work search. Therefore, as of September 25, 2005, the claimant is eligible to receive benefits because she is able to and available for work.

The claimant's employment with the employer ended in early February 2005. The Claims Section has not yet reviewed the reasons for the employment separation or decided whether the employer's account is subject to or exempt from charge. The issue regarding the reasons for the claimant's employment separation is remanded to the Claims Section to investigate and issue a written decision to the parties.

DECISION:

The representatives' October 5, 2005 decision (reference 03) is affirmed. As of September 25, 2005, the claimant is able to and available for work. The claimant is eligible to receive benefits as of September 25, 2005, provided she meets all other eligibility requirements. The issue regarding the reasons for the claimant's February employment separation is remanded to the Claims Section to investigate and issue a written decision to the parties.

dlw/kjw