

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MIRSADA TABAKOVIC
Claimant

APPEAL NO. 09A-UI-07871-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 11/23/08
Claimant: Appellant (1)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, Mirsada Tabakovic, filed an appeal from a decision dated May 22, 2009, reference 03. The decision found her ineligible for benefits for the period April 5 through May 31, 2009, as she was not able and available for work. After due notice was issued a hearing was held by telephone conference call on June 16, 2009. The claimant participated on her own behalf and Sanel Terzic.

ISSUE:

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

FINDINGS OF FACT:

Mirsada Tabakovic filed an additional claim for unemployment benefits with an effective date of April 5, 2009. She was under a doctor's care for high blood pressure, chest pain and abnormally high heart rhythm and not released to work until May 29, 2009. After the week ending May 31, 2009, she was eligible for benefits.

REASONING AND CONCLUSIONS OF LAW:

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 24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

The claimant was under a doctor's care from the date she filed an additional claim until the end of May 2009. Under the provisions of the above Administrative Code section she is not able and available for work during that time period.

DECISION:

The representative's decision of May 22, 2009, reference 03, is affirmed. Mirsada Tabakovic is not eligible for benefits for the period April 5 through May 31, 2009, as she was not able and available for work.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs