

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRAN T PHAM
Claimant

APPEAL NO. 11A-UI-03173-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ARAMARK UNIFORM & CAREER
APPAREL**
Employer

OC: 01/30/11
Claimant: Appellant (1)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated March 4, 2011, reference 01, which denied benefits effective January 30, 2011 upon a finding the claimant was not able to perform work due to illness. After due notice, a telephone hearing was held on April 5, 2011. Claimant participated personally. Although duly notified, the employer did not participate. The official interpreter was Ms. Pung Nguyen.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Tran Pham opened a claim for unemployment insurance benefits with an effective date of January 30, 2011 and was issued the customary information that explains the unemployment compensation system and its requirements.

Ms. Pham was denied unemployment insurance benefits because she was not able to work. The claimant is suffering from a knee condition which prevents her from working and will require knee surgery. Ms. Pham also suffers from diabetes which complicates her medical condition and has delayed her ability to be scheduled for knee surgery. The claimant was informed by her doctor that due to her medical condition she cannot work.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes the claimant is able and available for work. It does not.

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".

The evidence in the record establishes that Ms. Pham is unable to work due to a medical condition related to diabetes and the need for the claimant to have knee replacement surgery. Because of the claimant's medical condition she has been instructed by her physician that she is not able to work.

In order to be eligible to receive unemployment insurance benefits, a claimant must meet all eligibility requirements. These requirements include a claimant be able to work and available for work each week that they claim unemployment insurance benefits. Based upon the evidence in the record the administrative law judge concludes that the claimant is not able to work due to an illness or medical condition and, therefore, is not eligible to receive unemployment insurance benefits until a change in the claimant's medical condition.

DECISION:

The representative's decision dated March 4, 2011, reference 01, is affirmed. Claimant is denied benefits as of January 30, 2011. The claimant is not able to work and is ineligible to receive benefits until her condition changes.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs