

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORI L COMBS
Claimant

APPEAL NO. 06A-UI-10119-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SIOUX CITY HOSPITALITY
Employer

**OC: 09/10/06 R: 01
Claimant: Respondent (1)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Sioux City Hospitality filed an appeal from a representative's decision dated October 11, 2006, reference 02, which held that Lori Combs satisfied the availability requirements of the law effective September 10, 2006. After due notice was issued, a hearing was held by telephone on November 14, 2006. Ms. Combs participated personally. The employer participated by Samantha Nichols, General Manager, and Lynn Snyder, Assistant Manager.

ISSUE:

At issue in this matter is whether Ms. Combs was able to work and available for work as of the effective date of her claim for job insurance benefits.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Combs sustained a work-related injury to her right wrist on April 30, 2006 while in the employ of Sioux City Hospitality, doing business as Super 8 Motel. As a result of the injury, the doctor advised that she refrain from lifting more than ten pounds. It was also advised that she avoid activities that involved pinching, twisting, and grabbing. The employer provided work consistent with Ms. Combs' restrictions. She became separated from the employment on August 30, 2006.

After her separation, Ms. Combs filed a claim for job insurance benefits effective September 10, 2006. She still had the same medical restrictions at the time she filed. Ms. Combs is a high school graduate with 1.5 years of technical college where she took general business courses but did not obtain a certificate or degree. She has prior work experience as a race track teller, certified nursing assistant (CNA), front desk clerk, and bakery worker. Her medical restrictions prevented her from returning to work as a CNA or bakery worker. Ms. Combs began full-time employment as a cashier on October 16, 2006.

REASONING AND CONCLUSIONS OF LAW:

The only issue before the administrative law judge was whether Ms. Combs satisfied the availability requirements of the law when she filed her claim for job insurance benefits. In order to receive benefits, an individual must be mentally and physically able to work. Iowa Code section 96.4(3). Although Ms. Combs had sustained a wrist injury, her resulting restrictions did not preclude all work activity. In order to be considered able to work, an individual must be able to engage in some type of gainful employment that is engaged in by others as a means of livelihood. 871 IAC 24.22(1).

Ms. Combs' wrist injury resulted in her being unable to lift more than ten pounds or engage in work that required pinching, twisting, or grabbing with her right hand. She has taken course work at a technical college. She retains the physical ability to work as a desk clerk or teller, work that she has performed in the past. The fact that she is currently working as a cashier in spite of her restrictions is indicative of her ability to perform gainful work. For the reasons cited herein, the administrative law judge concludes that Ms. Combs has satisfied the availability requirements of the law at all times since filing her claim.

The employer's letter of appeal raised issues concerning Ms. Combs' separation from employment. This issue was not before the administrative law judge. The employer was notified of the claim on September 13, 2006 but did not file a protest concerning her entitlement.

DECISION:

The representative's decision dated October 11, 2006, reference 02, is hereby affirmed. Ms. Combs has satisfied the availability requirements of the law at all times since filing her claim for job insurance benefits effective September 10, 2006. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/cs