

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WILMA V NIDAY**  
Claimant

**APPEAL NO. 09A-UI-17789-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**INTERBAKE FOODS**  
Employer

**Original Claim: 08/09/09  
Claimant: Appellant (4)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Wilma Niday (claimant) appealed a representative's November 16, 2009 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was not able to work with Interbake Foods (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 6, 2010. The claimant participated personally. The employer participated by Jill Gill, Assistant Human Resources Manager.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on August 22, 2007, as a full-time general packing help. The claimant filed for unemployment insurance benefits with an effective date of August 9, 2009, because she was laid off intermittently for lack of work. For the week ending September 19, 2009, the claimant was ill and too sick to work. The claimant still works for the employer. She may have pressed the wrong buttons during weekly reporting to Iowa Workforce Development.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant was unable to work for the one-week period ending September 19, 2009.

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.

When an employee is ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant was ill and unable to work for the one-week period ending September 19, 2009. She is considered to be unavailable for work for the one-week period ending September 19, 2009. The claimant is disqualified from receiving unemployment insurance benefits for the one-week period ending September 19, 2009, due to her inability to work.

**DECISION:**

The representative's November 16, 2009 decision (reference 01) is modified in favor of the appellant. The claimant is disqualified from receiving unemployment insurance benefits because she was unable to work for the one-week period ending September 19, 2009.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/kjw