

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAYNE W ROLFE
Claimant

APPEAL NO. 08A-UI-04198-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EAGLE RIDGE OF IOWA LLC
Employer

**OC: 03/23/08 R: 04
Claimant: Respondent (1)**

Iowa Code § 96.4(3) - Able and Available

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 22, 2008, reference 02, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on May 13, 2008. Claimant responded to the hearing notice instructions but was not available when the hearing was called and did not participate. Employer participated through Steve Kruse, Donna Hazelton and Jeanene Krog. Claimant's Exhibit A was received. Employer's Exhibit 1 was received.

ISSUE:

The issue is whether claimant is able to and available for work effective March 23, 2008.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full time technician from May 20, 2006 until May 2, 2008 when she was discharged. Claimant has not claimed benefits after May 3, 2008 since she found other employment. She was injured at work and was placed on light duty from March 23 through April 21, 2008 and had no restrictions thereafter. Employer did not have full time work for her from March 23 through May 2, 2008.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work

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".

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.

871 IAC 24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a physician and has not been released as being able to work.

Inasmuch as the injury was work-related and the treating physician has released the claimant to return to work, even with restrictions the claimant has established her ability to work. Because the employer had insufficient work available, benefits are allowed.

DECISION:

The representative's decision dated April 22, 2008, reference 02 is affirmed. The claimant is able to work and available for work effective March 23, 2008. Benefits are allowed, provided the she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs