

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

VELMA CECIL
Claimant

CASEY'S MARKETING COMPANY
Employer

APPEAL 21A-UI-25290-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/10/21
Claimant: Appellant (5)**

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On November 12, 2021, Velma Cecil (claimant/appellant) filed an appeal from the November 9, 2021 (reference 01) unemployment insurance decision that denied benefits as of October 10, 2021 based on a finding claimant was unable to perform work due to injury.

A telephone hearing was held on February 3, 2022. The parties were properly notified of the hearing. The claimant participated personally. Casey's Marketing Company (employer/respondent) did not participate. Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant works for employer as a full-time shift leader. Claimant's first day of employment was in November 2012. Claimant is still employed in that position.

Claimant filed a claim for benefits each week from the benefit week ending October 16, 2021 through the benefit week ending November 20, 2021. Claimant was unable to work due to illness starting October 6, 2021. Claimant's physician did not release her to return to work until November 9, 2021. Claimant returned to her normal schedule at that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the November 9, 2021 (reference 01) unemployment insurance decision that denied benefits as of October 10, 2021 based on a finding claimant was unable to perform work due to injury is MODIFIED with no change in effect. Claimant is ineligible for benefits in the weeks filed.

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".

The administrative law judge finds claimant is ineligible for benefits in the weeks filed. This is because she was too ill to be able to work and was subsequently employed to such an extent as to be unavailable for work.

DECISION:

The November 9, 2021 (reference 01) unemployment insurance decision that denied benefits as of October 10, 2021 based on a finding claimant was unable to perform work due to injury is MODIFIED with no change in effect. Claimant is ineligible for benefits in the weeks filed.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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February 22, 2022
Decision Dated and Mailed

abd/abd