

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA A URBAN
Claimant

APPEAL NO: 13A-UI-01814-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TARGET CORPORATION
Employer

OC: 01/06/13
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Jessica Urban (claimant) appealed a representative's January 31, 2013 decision (reference 04) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Target Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 13, 2013. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

ISSUE:

The issue is whether the claimant is able to work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from October 2010, to January 5, 2013. On October 14, 2011, the claimant suffered a work-related rotator cuff tear. She had surgery on May 30, 2012. She was released to return to work on July 7, 2012. She performed other work through January 5, 2012. The employer took information from the claimant about what skills and jobs the claimant could perform. The claimant has a degree in psychology. She has worked as a customer service manager, a youth specialist and developed pictures. She was willing to transfer and move to another area of the country. The claimant was able to perform many types of work but the employer could not find any work for the claimant. The employer ended the claimant's employment on January 5, 2013.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is qualified to receive unemployment insurance benefits.

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 released to return to work with restrictions by her physician. She is considered to be available for work because her physician stated she was able and available for work. The employer did not participate in the hearing and, therefore, provided no evidence of that the claimant was not able to perform some sort of work for the company. The claimant is not disqualified from receiving unemployment insurance benefits.

DECISION:

The representative's January 31, 2013 decision (reference 04) is reversed. The claimant is not disqualified from receiving unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/tll