

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MADLINE I GARRETT

Claimant

APPEAL NO. 07A-UI-00268-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY

Employer

**OC: 11/19/06 R: 02
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Ms. Garrett filed a timely appeal from the January 8, 2007, reference 01, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on January 24, 2007. The claimant participated. Although notified the employer did not participate.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all the evidence in the record the administrative law judge finds: Ms. Garrett was employed as a full-time kitchen worker for the captioned employer from July 2005 until November 9, when she was limited to working 20 hours per week, light-duty, by her physician after being hospitalized. Ms. Garrett opened a claim for unemployment insurance benefits on November 19, 2006 and was issued the customary information that explains the unemployment compensation system and its requirements.

Because of her doctor's limitations Ms. Garrett is not able to work more than 20 hours per week and is limited to light-duty work. The claimant is not available to work full-time because of medical restrictions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant is not able and available for work as she is unable to work the required number of hours that she had accepted in her full-time occupation. The medical limitations imposed by the claimant's physician limit the claimant's availability for full-time work. The claimant's base period employment was for full-time work. Ms. Garrett is not able to work full-time and is not available for full-time work as of the time she opened her claim for benefits November 19, 2006. The limitation on the claimant's ability and availability continues at the time of hearing.

871 IAC 24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

As the evidence establishes Ms. Garrett is unable to work full-time and is not available for full-time work and that her employment in her base period was for full-time work, the administrative law judge finds the limitation upon the claimant's ability to work full-time limits the claimant's availability for work in her normal occupational field. The claimant, thus, does not meet the requirements of the law and is not eligible to receive unemployment insurance benefits.

DECISION:

The representative's decision dated January 8, 2007, reference 01, is hereby affirmed. Limitations upon the claimant's number of hours substantially limits the claimant's availability for work in her normal full-time occupation. The claimant is not eligible for benefits the circumstances regarding her availability have changed.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

css/css