

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LOU A HARE
Claimant

APPEAL 15A-UI-10454-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/28/15
Claimant: Appellant (3)**

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 3, 2015, (reference 02), unemployment insurance decision that denied benefits. After due notice was issued, a telephone conference hearing was scheduled to be held on October 1, 2015. Claimant participated. Official notice was taken of agency records.

ISSUE:

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: The claimant took her children trick or treating on October 31, 2014 and was attacked by a dog. She was treated in the emergency room and received a tetanus shot that resulted in her sustaining a frozen shoulder injury and an inability to use her left arm. The claimant has not been able to work since she sustained this non-work-related injury. At the hearing claimant was clear that she is still not able to use her left arm and is simply unable to work due to the problem with her left arm.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work effective June 28, 2015.

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as

defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(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.

The record is clear that the claimant is simply unable to work since her injury in October 2014. Thus she has not been able to and available for work since the time she filed her claim for unemployment insurance benefits with an effective date of June 28, 2015. Accordingly, benefits are denied.

DECISION:

The September 3, 2015, (reference 02) decision is modified in favor the agency. The claimant is not able to work and available for work effective June 28, 2015. Benefits are denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css