

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

LINDSAY M WIEGAND
Claimant

APPEAL NO: 18A-UI-11830-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THOMAS L CARDELLA & ASSOCIATES INC
Employer

**OC: 11/11/18
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions
Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Admin. Code r. 871-24.19(3) – Claims Bureau Subsequent Action

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 29, 2018, (reference 06) unemployment insurance decision that denied benefits because the claimant was not able to and available for work. A hearing was scheduled for January 7, 2019, based upon the claimant's appeal.

Prior to the hearing, a second decision dated December 7, 2018 (reference 09) was rendered by a different IWD representative, which concluded the claimant was able to and available for work effective November 11, 2018. No hearing was held.

ISSUE:

Should the reference 06 unemployment insurance decision be affirmed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for unemployment insurance benefits with an effective date of November 11, 2018. On November 29, 2018, (reference 06), an initial decision was issued, concluding the claimant was not able to and available for work effective November 11, 2018 due to illness. The claimant appealed the decision.

The decision appealed has been reversed with no gap in eligibility in the subsequent December 7, 2018, (reference 09) initial decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the representative's decision should be reversed.

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".

Since the decision appealed has been reversed by the reference 09 decision, the original representative's decision bearing reference 06 is reversed for consistency. The claimant is able to and available for work effective November 11, 2018, and allowed benefits, provided she is otherwise eligible.

DECISION:

The November 29, 2018, (reference 06) unemployment insurance decision is reversed. Benefits are allowed effective November 11, 2018, provided claimant is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn