

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ERIN J SUNDALL
Claimant

POLARIS INDUSTRIES INC
Employer

APPEAL NO. 21A-UI-04651-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/06/20
Claimant: Appellant (2)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated January 27, 2021 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on April 12, 2021. Claimant participated personally. Employer participated by Krystol Carlson.

ISSUES:

Whether claimant is able and available for work?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant has worked for employer since 1995 and is currently employed as a shipping clerk.

In December 2020 claimant contracted Covid – seemingly from her husband. She tested positive, and reported this to employer. Claimant was feeling few symptoms. She stated at all times she was able and available to come to work. Employer would not allow claimant to come to work on the dates she filed for unemployment under company and CDC directives.

REASONING AND CONCLUSIONS OF LAW:

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".

Iowa Admin. Code r. 871-24.22(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.

The claimant has established the ability to work. Benefits shall be allowed effective December 6, 2020.

DECISION:

The decision of the representative dated January 27, 2021, reference 01 is reversed. Claimant is eligible to receive unemployment insurance benefits, effective December 6, 2020, provided claimant meets all other eligibility requirements.



Blair A. Bennett
Administrative Law Judge

April 14, 2021
Decision Dated and Mailed

bab/lj