

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ERICA I SMITH
Claimant

L A LEASING INC
Employer

APPEAL NO. 14A-UI-05755-GT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/27/14
Claimant: Appellant (4)**

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 15, 2014, reference 03, which held claimant was not able and available for work. After due notice, a hearing was scheduled for and held on June 26, 2014. Claimant participated personally. Employer participated by Colleen McGuinty, Unemployment Benefits Administrator. Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is 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 presented Exhibit A which is a valid release back to work with no restrictions. The release to work is signed by a physician and is effective June 23, 2014.

REASONING AND CONCLUSIONS OF LAW:

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".

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.

Inasmuch as the medical condition was not work-related and the treating physician has released the claimant to return to work, she has established her ability to work. Benefits shall be allowed effective June 23, 2014. This decision does not in any way effect the June 11, 2014, reference 02 decision in this matter which held that the claimant was not eligible for benefits because she was discharged for misconduct. That same decision also stated that unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

DECISION:

The decision of the representative dated May 15, 2014, reference 03, is modified in favor of the claimant/appellant. Claimant is eligible to receive unemployment insurance benefits, effective June 23, 2014, provided claimant meets all other eligibility requirements.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/pjs