

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICIA A CLARK
Claimant

APPEAL NO. 09A-UI-06724-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PCM COMMUNITY SCHOOL DIST
Employer

OC: 03/29/09
Claimant: Appellant (4)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Patricia Clark filed an appeal from a representative's decision dated April 27, 2009, reference 01, which denied benefits effective March 29, 2009 on a finding that she was on a requested leave of absence. After due notice was issued, a hearing was held by telephone on May 27, 2009. Ms. Clark participated personally. The employer participated by Lisa Waddell, Business Manager.

ISSUE:

At issue in this matter is whether Ms. Clark has satisfied the availability requirements of the law since filing her claim effective March 29, 2009.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Clark has been employed by the school district since September of 1982. She works from 10 to 15 hours as a school bus driver. She was on a medical leave of absence for foot surgery beginning March 20, 2009. While she was recuperating, she was laid off from her full-time job and, therefore, filed a claim for job insurance benefits.

Ms. Clark was released by her doctor to resume work activity and returned to work for the school district on April 13. She was not able to work for any employer during the period following her foot surgery.

REASONING AND CONCLUSIONS OF LAW:

In order to receive job insurance benefits, an individual must be physically able to work. Iowa Code section 96.4(3). Ms. Clark acknowledged that she was not able to perform work activity for any employer from the date of her surgery until released by her doctor. Therefore, she was not entitled to job insurance benefits during this period. Benefits are denied from the effective date of the claim, March 29, 2009, until Sunday of the week in which she was released to work, April 12, 2009.

Ms. Clark was still working for the school district as of April 12. Her work with the school district was supplemental to her full-time employment elsewhere. As of April 12, she remained available to work the same hours as she had previously worked in her full-time job. Since the school district is still providing her with the same employment as it did during the base period of her claim, it is entitled to relief from benefit charges. Iowa Code section 96.7(2)a(2). The parties should notify Workforce Development if there is a change in Ms. Clark's employment status.

DECISION:

The representative's decision dated April 27, 2009, reference 01, is hereby modified. Ms. Clark is denied benefits from March 29 through April 11, 2009 as she was not able to work. Benefits are allowed, provided she is otherwise eligible, effective April 12, 2009 as she was again able to and available for work. Benefits paid as a result of the decision herein shall not be charged to PCM Community School District.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs