

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIELA S SCHMIDT
Claimant

APPEAL NO: 10A-UI-16040-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KRAFT FOODS GLOBAL INC
Employer

OC: 10/03/10
Claimant: Appellant (2)

Iowa Code § 96.4-3 – Ability to and Availability for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's November 12, 2010 determination (reference 02) that held her ineligible to receive benefits as of October 3, 2010, because an injury made her unable to work. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge finds the claimant eligible to receive benefits as of October 3, 2010.

ISSUE:

As of October 3, 2010, is the claimant able to and available for work?

FINDINGS OF FACT:

The claimant had been working for the employer in the pack and place department for about two months. The claimant had no problems doing work in the pack and place department. After the employer asked the claimant to train in the slicing department so she could work as a backup, the lifting required in this job aggravated the claimant's 2005 back injury. When the claimant worked in the slicing department she had to lift more than 20 pounds. The lifting and bending irritated the claimant's lower back and cause her pain. When the claimant started experiencing pain, she went to her doctor.

On September 29, the claimant's doctor gave her a work restriction of no lifting more than 20 pounds and no excessive lifting or bending. When the claimant gave the work restriction to the employer, the employer would not allow her to work. Even when the employer's physician examined her and cleared her to work her job, in the pack and place department, the employer would not allow the claimant to work.

The claimant established a claim for benefits during the week of October 3, 2010. After she established her claim, she started looking for work in sales or as a computer technician. The claimant has a degree in electronics.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4-3. Even though the employer would not allow the claimant to work at all with the September 29 restrictions, the claimant established she was able to and available to perform meaningful work. Not only was the claimant able to perform the job that the employer hired her to do, pack and place, she was also able to and available for work in computer sales or as a computer technician. As of October 3, 2010, the claimant is eligible to receive benefits.

DECISION:

The representative's November 12, 2010 determination (reference 02) is reversed. The claimant established that she was able to and available for work as of October 3, 2010. Therefore, as of October 3, 2010, she is eligible to receive benefits, provided she meets all other eligibility requirements.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs