

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER L SCHERRMAN
Claimant

APPEAL NO. 11A-UI-12893-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SPORTS LICENSED DIVISION OF
Employer

OC: 07/03/11
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 27, 2011, reference 02, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on October 24, 2011. Claimant participated personally and was represented by Gary Nelson, Attorney at Law. Employer failed to respond to the hearing notice and did not participate.

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 last worked for employer June 30, 2011. Claimant received a full duty work release after a work-related injury. Claimant tried to perform her work but was unable to do so. Claimant went off work again and sought treatment. Claimant was finally released to full duty October 10, 2011 with instructions to wear a splint. Claimant has been able and available for full-time work at all times after October 10, 2011.

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".

Inasmuch as the injury was work-related and the treating physician has released the claimant to return to work, the claimant has established the ability to work. Benefits shall be allowed effective October 10, 2011.

DECISION:

The decision of the representative dated September 27 2011, reference 02 is reversed. Claimant is eligible to receive unemployment insurance benefits, effective October 10, 2011, provided claimant meets all other eligibility requirements.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs