

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRISTIN D STANSBERRY
Claimant

APPEAL NO. 14A-UI-01027-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/29/13
Claimant: Appellant (2)

Section 96.4-3 – Able and Available
871 IAC 24.23(1) – Unable to Work/Illness

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated January 23, 2014, reference 02, that held she was unable to work due to illness as of December 29, 2013, and benefits are denied. A hearing was held on February 19, 2014. The claimant participated.

ISSUE:

The issue is whether claimant is able and available to work.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds that: The claimant worked at Cargill until September 5, 2013. She was granted FMLA due to migraines. She participated at department fact finding regarding her employment separation. The department issued a January 23, 2014 decision that allowed claimant benefits.

During the January 22, 2014 fact finding for the employment separation, the department representative recorded claimant's statement she was unable to perform work. Claimant recalls saying she was unsure if she was able to work.

Claimant was last treated for migraines by her doctor in November 2013. The doctor did not issue a report claimant was unable to work. Claimant's migraine condition has improved since her September separation from Cargill.

Claimant previously worked in an insurance agent position. She is searching for a job like the agent position or hotel desk clerk or bank teller.

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".

871 IAC 24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

The administrative law judge concludes no availability disqualification is imposed and claimant is eligible for benefits as of December 29, 2013.

There is no medical report restricting claimant from employment. Claimant has recovered from her migraines since her September 2013 employment separation at Cargill. She is able to work and she is actively searching for employment.

DECISION:

The decision of the representative dated January 23, 2014, reference 02, is reversed. The claimant meets the availability requirements of the law effective December 29, 2013. Benefits are allowed, provided claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs