

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CELESTE L CIVIDANES-PALLARES
Claimant

APPEAL NO: 15A-UI-05483-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CARGILL MEAT SOLUTIONS
CORPORATION**
Employer

OC: 04/12/15
Claimant: Respondent (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Cargill Meat Solutions Corporation (employer) appealed a representative's May 8, 2015, decision (reference 02) that concluded Celeste Cividanes-Pallares (claimant) was eligible to receive unemployment insurance benefits beginning April 12, 2015. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 19, 2015. The claimant participated personally. The employer participated by Emily Norton, Unemployment Representative. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the 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 that: The claimant was hired on May 7, 2014, as a full-time store room assistant. The claimant signed for receipt of the employer's handbook on May 17, 2011. The handbook indicates an employee will be terminated when she accumulates ten attendance points. On February 17, 2015, the claimant signed a first write-up, on March 3, 2015, a warning letter, on March 12, 2015, another first write-up, and on March 25, 2015, a second write-up. All of the disciplines were for attendance. The claimant properly reported her absence due to medical issues seven times. The employer did not give the claimant a copy of any of the disciplines.

The claimant had filed for Family Medical Leave (FMLA) due to pregnancy and was waiting for confirmation of its approval. Her clinic had faxed the paperwork to the employer's third-party provider three times. The provider told the employer it did not receive it and, therefore, denied the claimant's FMLA. On April 8, 9, 11, and 12, 2015, the claimant properly reported absence due to a medical issue. April 10, 2015, was the claimant's day off. Her physician released her to return to work on April 13, 2015. She returned to work on April 13, 2015, with her doctor's

note. The employer terminated the claimant on April 14, 2015, for excessive absenteeism. The claimant is under no restrictions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able and available for work.

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

There was no evidence that there were any restriction or limitation on employability. Accordingly, benefits are allowed.

DECISION:

The representative's May 8, 2015, decision (reference 02) is affirmed. The claimant is able and available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css