

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BARBARA M HOOD
Claimant

APPEAL NO: 17A-UI-04275-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

NORDSTROM INC
Employer

OC: 03/12/17
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Barbara Hood (claimant) appealed a representative's April 10, 2017 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Nordstrom (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 10, 2017. The claimant was represented by Christoph Rupprecht, Attorney at Law, and participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The claimant offered and Exhibit A 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 performed services for the employer from October 2009, to December 3, 2015. During her employment the claimant suffered a work-related injury to her right arm. She had five surgeries, the last of which was in January 2016. The claimant was released by her physician to perform light duty work. The employer had no work available and so it arranged to pay the claimant for light duty work she performed for the non-profit organization, St. Vincent de Paul from May 2016, to November 2016. On February 3, 2017, the claimant's physician provided another letter of release to return to work with restrictions. The employer did not provide the claimant with any other work after November 2016.

The claimant worked for and was paid by St. Vincent de Paul for part-time work from March 20 to April 13, 2017. She worked ten hours per week during that period.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able and available for work.

Iowa Admin. Code r. 871-24.23(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.

When an employee is ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant was released to return to work with restrictions by her physician. She is considered to be available for work because her physician stated she was able and available for work.

Iowa Admin. Code r. 871-24.23(23) provides:

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

- (23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant was working part-time, ten hours per week, for the four week period ending April 15, 2017. She was not working enough hours to remove her from the labor market. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's April 10, 2017, decision (reference 02) is reversed. The claimant is able and available for work. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs