

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROL D MOSS
Claimant

APPEAL NO. 14A-UI-00587-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FOODS INC
Employer

OC: 11/24/13
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 January 13, 2014, reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on February 10, 2014. Claimant participated personally. Employer participated by Tom Day, Store Manager. Exhibit A was admitted into evidence.

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 was given work restrictions of sit and stand off and on during her work day effective November 24, 2013. Employer could not put a chair behind the claimant's cash register so as to accommodate claimant's work restrictions. The health issue that caused the restrictions was not work related. Employer refused to accommodate claimant's restrictions and put her on a leave of absence until the restrictions were removed December 10, 2013. The leave of absence was caused by a non-work medical condition.

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(10) provides:

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

Inasmuch as the illness was not work-related and the treating physician has released the claimant to return to work, the claimant has established the ability to work. Benefits are withheld effective November 24, 2013 and until such time as the claimant obtained a full medical release to return to work effective December 10, 2013. Benefits shall be allowed effective December 10, 2013.

DECISION:

The decision of the representative dated January 13, 2014, reference 01, is reversed. Claimant is not eligible to receive unemployment insurance benefits, effective November 24, 2013, through December 9, 2013. Benefits shall be allowed effective December 10, 2013.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs