

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ALEXIS N ROBINSON
Claimant

APPEAL 14A-UI-07586-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/01/14
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(1) – Able to Work - illness, injury or pregnancy
Iowa Admin. Code r. 871-24.23(35) – Availability Disqualifications

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 24, 2014, (reference 02), unemployment insurance decision that denied benefits based upon not being able to or available for work effective July 13, 2014. After due notice was issued, a telephone conference hearing was scheduled to be held on August 18, 2014. Claimant participated. The proposed exhibit was read into the record, combined with testimony, since it was partially illegible.

ISSUE:

Is the claimant able to and available for work from July 13 through July 26, 2014?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On Friday, July 18, the claimant had outpatient surgery and was removed from all work through Friday, July 25, 2014, when she was placed on light-duty work for five weeks. During her base period employment with Banks, Inc. she could have performed her work within light-duty restrictions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able to work the majority of the work week ending July 19, 2014; was not able to work and available for work the majority of the work week ending July 26, 2014, but is able to and available for work effective July 27, 2014.

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 § 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".

Iowa Admin. Code r. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Since the employment before the medical procedure, claimant is not obligated to return to the employer to offer her services. At that point, her ability to work is not measured by the job she held most recently, but by standards of her education, training, and work history. Since she has performed work duties consistent with the light-duty restrictions within the work history, she is considered able to work as of July 27, 2014.

An individual claiming benefits must be able to work, available for work, and if unemployed, actively and earnestly seeking work. Claimant was able to work the majority of the work week ending July 19, 2014; was not able to work and available for work the majority of the work week ending July 26, 2014, but is able to and available for work effective July 27, 2014, since she has been released to light-duty work consistent with her work history. Claimant is on notice that she must conduct at least two work searches per week and file weekly claims in order to retain eligibility for benefits.

DECISION:

The July 24, 2014, (reference 02) unemployment insurance decision is modified in favor of the appellant. Claimant was able to work the majority of the work week ending July 19, 2014; was not able to work and available for work the majority of the work week ending July 26, 2014, but is able to and available for work effective July 27, 2014, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

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