

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA A VIDEBECK
Claimant

APPEAL NO: 10A-UI-07884-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/10/10
Claimant: Appellant (2)

Section 96.4-3 – Able to and Available for Work

STATEMENT OF THE CASE:

The claimant appealed a representative's May 21, 2010 decision (reference 03) that held her disqualified from receiving benefits because she had voluntarily quit her employment for reasons that do not qualify her to receive benefits. When the claimant appealed, she appealed the issue of whether she was able to and available for work as of April 1 because her employment separation occurred prior to January 10, 2010. The representative obviously made an error because the claimant has not worked after January 10, 2010 and the decision does not indicate any employer. The claimant agreed there was no April 1, 2010 employment separation and she only appealed the issue of whether she is able to and available for work as of April 1, 2010.

A hearing was held on July 22, 2010. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

As of April 1, 2010, is the claimant able to and available for work?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of January 10, 2010. Since she established her claim, she has been filing weekly benefits and receiving benefits. The claimant has not been employed after January 10, 2009.

The claimant was involved in a car accident on April 1, 2010. She fractured her back in the accident. While her physician restricted her from doing any heavy lifting, the claimant's physician did not restrict her from working. Since the April 1, 2010 accident, the claimant has looked for clerical work and convenience store work. She has experience doing these jobs.

As a result of her accident, the claimant went to physical therapy three times a week. Since she was not working, the claimant scheduled these appointments when there was an opening. The

claimant did not have a set time to go to therapy and could have worked around any job she may have obtained.

The claimant has filed claims for the weeks ending April 3 through July 17, 2010.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4-3. Based on the evidence presented during the hearing, the claimant established she was able to and available for work even though she fractured her back in an April 1, 2010 car accident. While the claimant was not able to work in a job that required her to do any heavy lifting, she established she was looking for and had the experience in jobs that did not require her to do heavy lifting. As of April 1, 2010, the claimant established she is able to and available for work. Therefore, she remains eligible to receive benefits as of April 1, 2010.

DECISION:

The representative's May 21, 2010 decision (reference 03) is reversed. The claimant established that as of April 1, 2010, she was able to and available for work. Therefore, she remains eligible to receive benefits as of April 1, 2010.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css