

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DARLA R RICHTER**  
Claimant

**APPEAL NO. 07A-UI-01316-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01-14-07 R: 01  
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the February 1, 2007, reference 04, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on February 20, 2007. The claimant participated.

**ISSUE:**

The issue is whether the claimant is able and available for work.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a production worker working full time until she was separated from her employment due to physical inability caused by degenerative disc disease. Ms. Richter opened a claim for unemployment insurance benefits effective January 14, 2007, and was provided information explaining the unemployment system and its requirements. At the time Ms. Richter opened her claim, she stated that she was not able to work because of her physical condition. On February 1, 2007, her doctor indicated that the claimant is still under his care and the lifting and movement limitations continue. Although Ms. Richter hopes to find secretarial work or work of a similar nature she is not released to work full time because of her medical condition.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is not able and available for work within the meaning of the Iowa employment security law. Due to an ongoing medical condition, the claimant is restricted from lifting more than 15 pounds and from performing a variety of movements. While the claimant hopes to secure employment in secretarial work or work of a similar nature, the claimant's earned wage credits in her base period are for employment that was full-time work, and the claimant continues to be restricted from working full time by her physician.

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 24.22(2) 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.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

For the reasons stated herein, the administrative law judge finds that the claimant is not able and available for work within the meaning of law. Accordingly, benefits are denied as of January 14, 2007, and until the claimant's circumstances have changed.

**DECISION:**

The February 1, 2007, reference 04, decision is hereby affirmed. The claimant is not able and available for work effective January 14, 2007, and benefits are denied.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

tpn/kjw