

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MEGAN R IRWIN
Claimant

APPEAL NO: 17A-UI-10674-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MID-STEP SERVICES INC
Employer

OC: 10/01/17
Claimant: Appellant (4)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 16, 2017, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on November 6, 2017. The claimant participated in the hearing. Jan Hackett, Human Resources Director, participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time residential living assistant for Mid-Step Services from December 12, 2016 to September 11, 2017. She was discharged due to attendance.

The claimant was pregnant and gave birth October 14, 2017. She had a fact-finding interview October 13, 2017, regarding her separation from employment. She waived her Snyder rights and the fact-finder took evidence with regard to whether the claimant was able and available for work due to her pregnancy and the fact she was due to have the baby at any time. The claimant stated she was going to stay home four weeks with the baby and not work during that time. After she received the fact-finding decision the claimant went back to her doctor and asked for an immediate release to return to work and received one backdated to October 16, 2017. The claimant did not provide the note to the Department.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able and available until the week ending November 18, 2017.

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 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".

While the claimant stated she had a doctor's note releasing her to return to work two days after her baby was born, she has not provided that note to the Department and it is unrealistic to take two days off after having a child. The claimant made a much more reasonable assessment during the fact-finding interview when she said she was going to stay home for four weeks with her baby. Consequently, benefits are denied until the week ending November 18, 2017, four weeks after the claimant gave birth.

DECISION:

The October 16, 2017, reference 03, decision is modified in favor of the claimant. The claimant is able and available for work effective November 18, 2017, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn