

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUDY A PLAYLE

Claimant

APPEAL NO: 14A-UI-05697-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MAHASKA COUNTY

Employer

OC: 04/27/14

Claimant: Appellant (1)

Section 96.4-3 – Able and Available
§ 17A.12-3 – Non-appearance of Party
871 IAC 26.8(5) – Decision on the Record

STATEMENT OF THE CASE:

Judy A. Playle (claimant) appealed a representative's May 22, 2014 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits because she was not able and available for work. Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held at 8:30 a.m. on June 26, 2014. This appeal was consolidated for hearing with one related appeal, 14A-UI-05698-DT. A review of the Appeals Bureau's conference call system indicates that the claimant failed to respond to the hearing notice and register a telephone number at which she could be reached for the hearing and did not participate in the hearing. Mahaska County (the employer) received the hearing notice and responded by accessing the Appeals Bureau's conference call system on line on June 10, 2014. The employer indicated that Jerome Nusbaum would be available at the scheduled time for the hearing at a specified telephone number. However, when the administrative law judge called that number at the scheduled time for the hearing, Mr. Nusbaum was not available; therefore, the employer did not participate in the hearing. Based on a review of the available information and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

OUTCOME:

Affirmed. Benefits denied unless or until the claimant becomes able and available for work.

FINDINGS OF FACT:

The claimant started working for the employer on April 14, 2010. She worked part time as a maintenance/janitorial worker. Her last day of work was on or about April 11, 2014.

On April 18 the claimant was seen by a doctor and diagnosed with hemorrhoids. She was given a note excusing her from April 14 through April 18. She was then excused from April 21 through April 25. She then informed the employer on May 1 that she still could not return to work, that she was to have surgery on May 29, and that she did not know when she would be able to return to work.

On May 7 the employer sent the claimant a letter advising her that her employment was ended. The claimant established an unemployment insurance benefit year effective April 27, 2014.

The claimant has not presented any doctor's note indicating that her condition has been resolved so that she would now be able to return to employment if employment was available for her.

REASONING AND CONCLUSIONS OF LAW:

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, is available for work, and is earnestly and actively seeking work. Iowa Code § 96.4-3. A claimant is not able and available for work if she is ill and under a doctor's care. Rules 871 IAC 24.22(1), 871 IAC 24.23(1),(35).

The available evidence indicates that the claimant has not been able and available for work from about April 14 through at least the date of her scheduled surgery May 29, and there has been no showing that the claimant has been released by her doctor post-surgery as now able to work. Benefits are denied until or unless she establishes that she has been released and is again able and available for work.

DECISION:

The representative's May 22, 2014 decision (reference 02) is affirmed. The claimant is not able to work and available for work effective April 27, 2014. The claimant is not currently qualified to receive unemployment insurance benefits.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css