

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAWN R YOUNG
Claimant

APPEAL 17A-UI-05338-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LINN MAR COMMUNITY SCHOOL DIST
Employer

**OC: 04/23/17
Claimant: Respondent (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 17, 2017, (reference 02) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on June 8, 2017. The claimant participated and testified. The employer participated through Human Resource Generalists Heather Jordan and Cathy Gauger. Claimant's Exhibit A and employer's Exhibit 1 were received into evidence.

ISSUE:

Is the claimant able to work and available for work effective April 23, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as the Supervisor of Alternative Education from August 1, 2002, until this employment ended on April 21, 2017, when she voluntarily quit.

On April 14, 2017, claimant submitted her written resignation, which was to take effect April 21, 2017. (Exhibit 1). Prior to submitting her resignation claimant had been taking intermittent leave for an undiagnosed medical condition. Claimant had requested additional leave, but this request had been denied, as she had not submitted any medical documentation supporting her need for additional leave. Claimant testified she was under no medical restrictions by her doctor, nor is she currently under any medical restrictions. Claimant left her employment because she did not believe she could meet this employer's attendance standards. Claimant confirmed that she may occasionally need time off on an intermittent basis due to her medical condition, but that this does not prevent her from working most of the time. Claimant indicated there were no other issues affecting her ability to or availability for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective April 23, 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".

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.

To be able to work, "[a]n 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." *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1). "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides." *Sierra* at 723. The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that "[i]nsofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

Inasmuch as the medical condition was not work-related and the treating physician has indicated claimant has no restrictions on her work, she has established her ability to work. Claimant provided credible testimony that she was not and is not under any medical restrictions preventing her from working. Thus the claimant is considered as able to work as of April 23, 2017. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The May 17, 2017, (reference 02) unemployment insurance decision is affirmed. The claimant is able to work and available for work effective April 23, 2017. Benefits are allowed, provided she is otherwise eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs