

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEAL**

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

RANDY L OLESEN
Claimant

APPEAL NO. 12A-UI-13381-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ANTHONY
EQUIPMENT BROKERS INC**
Employer

**OC: 04/22/12
Claimant: Appellant (1)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, Randy Olesen, filed an appeal from a decision dated November 5, 2012, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 10, 2012. The claimant participated on his own behalf. The employer, Anthony, participated by Human Resources Manager Tara Klocke.

ISSUE:

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

FINDINGS OF FACT:

Randy Olesen began employment with Anthony on September 13, 1997 and is currently employed as a full-time welder. He is on restrictions from his doctor for an enlarged disc and currently unable to do “tack welding” and cannot bend more than six times per hour.

There are tasks he can do within these restrictions such a tig welding and operating the roll former machine. But when this type of work is not available there are no other tasks he can do within the restrictions. The condition is non-work-related.

REASONING AND CONCLUSIONS OF LAW:

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".

The claimant is only partially able and available for work. If he had no restrictions there would be more work he could perform to work full-time hours. A "recovery" under Section 96.5-1-d means a complete recovery without restriction. *Hedges v. IDJS*, 368 N.W.2d (Iowa App. 1985). The claimant is not eligible for benefits.

DECISION:

The representative's decision of November 5, 2012, reference 01, is affirmed. Randy Olesen is not fully able and available for work and therefore not eligible for unemployment benefits.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css