

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW A DAVIS
Claimant

APPEAL NO: 17A-UI-12162-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BHJ USA INC
Employer

OC: 10/29/17
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Matthew Davis (claimant) appealed a representative's November 20, 2017, decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits because he was unable to work with BHJ USA (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 19, 2017. The claimant participated personally. The employer participated by Jessie Onatolu, Human Resources Business Partner. The claimant offered and Exhibit A was received into evidence.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from March 16, 2017, to November 2, 2017. On November 1, 2017, the claimant was injured at work. The employer sent the claimant to a doctor who returned him to work with restrictions.

On November 2, 2017, the claimant properly reported that he would be tardy for work because he was in pain from his injury. He arrived at work fifteen minutes late. On November 2, 2017, the claimant worked with restrictions for approximately three hours before the employer terminated him because he was tardy that day.

The claimant saw the physician on November 8, November 22, and December 14, 2017. Each time the doctor released the claimant to return to work with restrictions. The claimant will see the doctor again on December 28, 2017. He continues to be able to work.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able to work.

Iowa Admin. Code r. 871-24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

When an employee is ill and unable to perform work due to that illness, he is considered to be unavailable for work. The claimant was released to return to work with restrictions by his physician. He is considered to be available for work because his physician stated he was able and available for work. The claimant is not disqualified from receiving unemployment insurance benefits.

DECISION:

The representative's November 20, 2017, decision (reference 02) is reversed. The claimant is able to work. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs