

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY BOGUE
Claimant

APPEAL NO: 14A-UI-03804-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**AVENTURE STAFFING & PROFESSIONAL
STAFFING SERVICES**
Employer

OC: 03/16/14
Claimant: Appellant (4)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Timothy Bogue (claimant) appealed a representative's April 7, 2014, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he was unable to work with Adventure Staffing & Professional Staffing Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 29, 2014. The claimant participated personally. The employer participated by Deb Miller, Human Resources Specialist. 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 September 20, 2012, to March 15, 2014. The claimant filed for unemployment insurance benefits with an effective date of March 16, 2014. On March 15, 2014, the claimant's physician restricted him from work of any kind. On April 15, 2014, the claimant's physician released him to return to work without restrictions.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant was not able and available for work from March 16 through the benefit week ending April 12, 2014.

871 IAC 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.

Also 871 IAC 24.23(6) provides:

- (6) If an individual has a medical report on file submitted by a physician, stating such individual is not presently able to work.

When an employee is ill and unable to perform work due to that illness, he is considered to be unavailable for work. The claimant is considered to be unavailable for work after from March 16 through the benefit week ending April 12, 2014. The claimant is disqualified from receiving unemployment insurance benefits from March 16 through the benefit week ending April 12, 2014, due to his unavailability for work.

On April 15, 2014, the claimant was released to return to work without restrictions by his physician. He is considered to be able and available for work for the week ending April 19, 2014, because his physician stated he was able and available for work. The claimant is not disqualified from receiving unemployment insurance benefits starting the week ending April 19, 2014, so long as he is otherwise eligible.

DECISION:

The representative's April 7, 2014, decision (reference 01) is modified in favor of the appellant. The claimant is disqualified from receiving unemployment insurance benefits from March 16 through the benefit week ending April 12, 2014, because he was not able and avail for work with the employer. The claimant is not disqualified from receiving unemployment insurance benefits starting the week ending April 19, 2014, so long as he is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css