

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JAMES B LINDQUIST
Claimant

APPEAL NO. 17A-UI-03091-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CEDAR VALLEY MECHANICAL INC
Employer

OC: 01/22/17
Claimant: Appellant (1)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated March 8, 2017 reference 02, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on April 4, 2017. Claimant participated personally. Employer participated by Mark Hoffender and John Bennett.

ISSUE:

The issue in this matter is whether 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: Claimant was absent from work after November 18, 2016 because of kidney stones. Claimant texted employer on November 30, 2016 indicating that he would be coming back to work December 1, 2016. On December 1, 2016 claimant again texted employer indicating that he would not be back that date.

Claimant indicated that he was able and available to return to employment in early December, 2016.

REASONING AND CONCLUSIONS OF LAW:

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".

Inasmuch as the illness was not work-related and the treating physician has released the claimant to return to work on or around early December, the claimant has established the ability to work as of the date of filing his original claim. Benefits shall be allowed effective the date of claimant's filing of his original claim on January 22, 2017.

DECISION:

The decision of the representative dated March 8, 2017, reference 02 is affirmed. Claimant is eligible to receive unemployment insurance benefits, effective January 22, 2017, provided claimant meets all other eligibility requirements.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/rvs