

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL R HOTMAN**  
Claimant

**APPEAL NO: 13A-UI-08139-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PREMIER ELECTRIC OF IOWA LLC**  
Employer

**OC: 05/27/12**

**Claimant: Appellant (4/R)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Michael R. Hotman (claimant) appealed a representative's July 3, 2013 decision (reference 03) that concluded he was qualified to receive unemployment insurance benefits by being able and available for work, but not until to May 12, 2013. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 26, 2013. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

**FINDINGS OF FACT:**

The claimant has worked for the employer for over nine years. He had an open claim for unemployment insurance benefits effective May 27, 2012. He was off work for a period of time beginning February 10, 2013 due to a surgery. An administrative law judge's decision issued on April 2, 2013 in 13A-UI-02590-JTT had concluded that the claimant was not able and available or work and therefore not eligible to receive unemployment insurance benefits as of February 10, 2013.

The claimant's doctor released him as able to return to work as of March 18, 2013. The claimant did return to work, before being laid off for lack of work in early May.

The claimant then reopened his claim for unemployment insurance benefits; Agency record indicate that the effective date of that reopening was May 12, 2013; it does not appear that the claimant successfully reopened his claim effective May 6 or filed a weekly continued claim for the benefit week ending May 11, 2013.

**REASONING AND CONCLUSIONS OF LAW:**

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, is available for work, and is earnestly and actively seeking work. Iowa Code § 96.4-3. A person under doctor's orders to be off work is not able and available for work. 871 IAC 24.23(35). A doctor's release is prima facie evidence of a claimant's ability to work. 871 IAC 24.22(1)(a). As of March 18, 2013 the claimant is able and available for work, and eligible to receive unemployment insurance benefits if he is otherwise eligible.

An issue has arisen as to whether the claimant should be allowed to backdate the reopening of his claim to May 5 and to make a backdated weekly combined claim for the benefit week ending May 11. These issues have not been previously considered and they were not included in the notice of hearing for this case; the case will be remanded for an investigation and preliminary determination on these issues. 871 IAC 26.14(5).

**DECISION:**

The representative's July 3, 2013 decision (reference 03) is modified in favor of the claimant. The claimant is able to work and available for work effective March 18, 2013. The claimant is qualified to receive unemployment insurance benefits as of that date, if he is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the backdating issues.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs