

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AUSTIN RAMSEY

Claimant

APPEAL NO: 14A-UI-13267-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INC OF DES MOINES

Employer

OC: 11/16/14

Claimant: Appellant (4)

Iowa Code § 96.5(2)a – Discharge
Iowa Code § 96.4(3) – Able to and Available for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 19, 2014 determination (reference 03) that held he was not qualified to receive benefits and the employer's account was not subject to charge because he had voluntarily quit this employment for reasons that do not qualify him to receive benefits. The claimant participated at the January 21, 2015 hearing. Felicia Van Vark, the branch manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the reasons for the claimant's employment separation does not disqualify him from benefits and he is eligible to receive benefits as of December 28, 2014, when his physician released him to work without any restrictions.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

When is the claimant available for work?

FINDINGS OF FACT:

The claimant registered to work for the employer's clients on July 6, 2014. The employer is a staffing firm. The employer assigned the claimant to a welding job at Ver Meer. In August, the claimant was diagnosed with carpal tunnel. He informed both the employer's representative and Ver Meer supervisors about this diagnosis. In late September the claimant learned he would have to have surgery. He again told the employer and Ver Meer that he needed surgery. On October 5, the employer informed the claimant he no longer worked at Ver Meer. The claimant understood Ver Meer was not satisfied with his work after he needed surgery. The employer also told the claimant he would be assigned to another job

The claimant worked for another client from November 10 through 14. He completed this assignment. On November 25, the employer contacted him about another job assignment. The claimant informed the employer he was having surgery that day and would be off work about a

week. The employer called the claimant about a week later to offer him a job that required him to lift 25 pounds. When the employer contacted him, the claimant had a 15-pound weight restriction. The claimant declined this job because his work restriction did not allow him to do heavy lifting that this job required. The employer asked the claimant to provide the employer with a copy of his work restrictions. The claimant did not provide the employer with his work restrictions because he concluded the employer wanted his unemployment insurance benefits denied and did not understand the unemployment insurance procedures.

The claimant had a 15-pound weight restriction until December 28, 2014. As of December 28, his physician released him to work without any work restrictions. The claimant was restricted from doing any work from November 25 through December 3, 2014.

The claimant established a claim for benefits during the week of November 16, 2014. From November 25 through December 3, the claimant was not released to work. From December 3 through December 28, the claimant had a 15-pound weight restriction. After the claimant established a claim for benefits, the claimant looked for work. Initially, the claimant talked to friends for work that would accommodate his work restrictions. When the claimant had 15-pound weight restrictions, he applied for a job as a meter reader, but he also applied for jobs that did not accommodate his work restrictions at that time. After the claimant was released to work without any work restrictions, he has applied for welding positions and other jobs.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(2)a. The evidence indicates the claimant's assignment ended at Ver Meer for nondisqualifying reasons. When the claimant was told his assignment ended on October 5, 2014, the employer told him he would be assigned to another job. This employment separation does not disqualify the claimant from receiving benefits.

The claimant next worked at a one-week assignment for the employer. The claimant completed this assignment on November 14. This employment separation was again for nondisqualifying reasons. The employer considered the claimant an active employee and contacted him on November 25 to offer him a job. The claimant then reminded the employer he was having surgery and was not available for a week. In about week, the employer again contacted the claimant about a job that required him to lift 25 or more pounds and he was restricted from lifting any more than 15 pounds.

The claimant's assignments ended on October 5 and November 14 for reasons that do not disqualify him from receiving benefits because he completed the job assignments and the employer kept contacting him about other jobs.

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4(3). The facts establish the claimant was able to and available for work during the week ending November 22. He was not able to or available for work the week ending November 29. On December 3, 2014, the claimant's physician released to work with a 15-pound weight restriction. Even though the claimant looked for work between November 20 and December 27, the evidence indicates he was looking for a tailor-made job which restricted

his availability for work. As of December 28, when the claimant did not have any work restrictions, he was able to and available for work. Based on his ability to and availability for work, the claimant is eligible to receive benefits for the week ending November 22 and not again until the week of December 28, 2014.

DECISION:

The representative's December 19, 2014 determination (reference 03) is modified in the claimant's favor. The claimant's employment separations on October 5 and November 14 do not disqualify him from receiving benefits. He did not voluntarily quit and the employer did not discharge him for work-connected misconduct. The claimant is eligible to receive benefits for the week ending November 22 because he was able to and available for work. For the weeks ending November 29 through December 27, 2014, he is not eligible to receive benefits because he was either restricted from working or his work restrictions unduly limited his availability for work. As of December 28, 2014, the claimant is eligible to receive benefits because he has no work restrictions and is available for work.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs