

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DEREK D EDWARDS
Claimant

JABIL CIRCUIT INC
Employer

APPEAL NO. 15A-UI-08989-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/24/14
Claimant: Appellant (1)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 3, 2015 reference 04, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on August 28, 2015. Claimant participated personally. Employer did not register for or participate in the hearing

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 last worked for employer on March 13, 2015. After that date claimant was placed on short term disability as a result of anxiety problems. On or around June 20, 2015, claimant's therapist produced a document stating that claimant was able to return to work. Claimant attempted a return to work, but the anxiety was great once again.

On June 30, 2015 claimant's therapist sent a letter to employer explaining that claimant's conditions had become worse, and claimant was in need of further assistance. The therapist gave no indication as to when claimant might be able to return to work. On or around July 15, 2015 employer determined that it could no longer keep claimant on short term disability and terminated claimant's employment.

Claimant has decided on his own that he can start working and has been working on some jobs as a painter.

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".

Iowa Admin. Code r. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a physician and has not been released as being able to work.

Inasmuch as the illness was not work-related and the treating physician has not released the claimant to return to work, the claimant has not established the ability to work. Benefits are withheld until such time as the claimant obtains a full medical release to return to work.

DECISION:

The decision of the representative dated August 3, 2015, reference 04 is affirmed. Claimant is not eligible to receive unemployment insurance benefits until such time as the claimant obtains a full medical release to return to work.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/pjs