

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**MIRSAD BEKRIC**  
Claimant

**APPEAL NO: 06A-UI-07811-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TITAN TIRE CORPORATION**  
Employer

**OC: 11/20/05 R: 02  
Claimant: Appellant (1)**

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Section 96.4-3 - Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated July 25, 2006, reference 05, that concluded he was not able to work. A telephone hearing was held on August 21, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative, Thomas Berg, Attorney at Law. No one participated in the hearing on behalf of the employer. The record was left open for the claimant to submit a doctor's statement regarding his ability to work. The statement was received on August 31, 2006, and is admitted as Exhibit A.

**ISSUE:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

The claimant worked full-time as a forklift operator for the employer from November 8, 2004 to August 24, 2005. The job involved manual labor and occasional heavy lifting. The claimant only has one arm. He was able to perform the duties of his job using his left arm until August 2005. His work aggravated a pre-existing arthritic condition in his left wrist and shoulder.

The claimant was off work due to this condition based on his doctor's advice. He has been restricted to no repetitive motion with his left wrist and shoulder, no activities over chest level and no lifting of over five pounds. The employer has not provided work accommodating that restriction and the claimant has been unemployed.

There are no jobs that have been established that exist in the labor market that the claimant is able to do with his restrictions that the claimant is fitted for by training and experience. The claimant has applied for pizza delivery jobs but has not established that he is able to perform that work with his restrictions.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is able to work, available for works and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code section 96.4-3. The unemployment insurance rules provide that a person must be physically able to work, not necessarily in the individual's customary occupation, but in some reasonably suitable, comparable, gainful, full-time endeavor that is generally available in the labor market. 871 IAC 24.22(1)b. There is no competent medical evidence of any jobs available in the labor market meeting the claimant's restrictions that the claimant is qualified to perform. A pizza delivery job does not just involve driving but also requires lifting. The claimant was asked to have the doctor evaluate jobs that the claimant was qualified and was seeking, but the information provided only lists restrictions.

**DECISION:**

The unemployment insurance decision dated July 25, 2006, reference 05, is affirmed. The claimant is ineligible to receive unemployment insurance benefits. If circumstances change in the future and the claimant believes the disqualification can be removed, he is required to reapply for benefits and establish he is able to work.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/cs