

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PAUL E BECKLER**

Claimant

**APPEAL 21A-UI-17901-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QUALITY STRIPING INC**

Employer

**OC: 12/22/19**

**Claimant: Appellant (4R)**

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Iowa Code § 96.5(3)a – Failure to Accept Work  
Iowa Code § 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

The claimant/appellant, Paul E. Beckler, filed an appeal from the August 2, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits because claimant refused recall to employment. The parties were properly notified about the hearing. A telephone hearing was held on October 6, 2021. The hearing was held together with Appeal 21A-UI-17902-JC-T. The claimant participated personally. Peggi Spors testified for claimant. The employer, Quality Striping Inc., participated through Keven Kleve.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did claimant fail to accept a suitable offer of work and if so, was the failure to do so for a good cause reason?

Is the claimant able to work and available for work effective June 27, 2020?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds Claimant began work for this employer in 2015. He worked as a full-time shop laborman/handyman earning \$16.50 per hour. Claimant had a prior injury to his shoulder, which he “retweaked” on June 4, 2020. Claimant returned to his doctor on June 16, 2020. Claimant last performed work on June 20, 2020.

Claimant remained under medical care, including light duty and modified hours. Claimant did not present evidence from his treating physician of being able to return to work with or without restrictions. Employer had work available to claimant.

Claimant permanently separated from work June 27, 2020. The issue of claimant's permanent separation has not yet been addressed by the Benefits Bureau.

### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is ineligible for benefits effective June 20, 2020.

Iowa Code section 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 96.1A, subsection 38, paragraph "b", subparagraph (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. 871-24.24(4) provides:

(4) Work refused when the claimant fails to meet the benefit eligibility conditions of Iowa Code section 96.4(3). **Before a disqualification for failure to accept work may be imposed, an individual must first satisfy the benefit eligibility conditions of being able to work and available for work** and not unemployed for failing to bump a fellow employee with less seniority. If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant shall not be disqualified for refusal since the claimant is not available for work. In such a case it is the availability of the claimant that is to be tested. Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases. (emphasis added)

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 medical practitioner and has not been released as being able to work.

Employer in this case had work available to claimant effective June 20, 2020. For an individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that he is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22. Claimant did not present evidence to establish he was able to and available for work with or without restriction after reinjuring his shoulder. Therefore, based on the evidence presented, the administrative law judge concludes the claimant was not able to and available for work. Regular state unemployment insurance benefits are denied.

The issue of claimant's permanent separation/requalification is remanded to the Benefits Bureau for an initial investigation.

**DECISION:**

The August 2, 2021, (reference 01) unemployment insurance decision is modified in favor of claimant. This decision replaces the disqualification that requires claimant earn ten times her weekly benefit amount (based upon a work refusal) to requalify for benefits.

The claimant is not available for insured work effective June 20, 2020, and regular, state-funded unemployment insurance benefits are denied.

Regular unemployment insurance benefits funded by the state of Iowa are denied until such time the claimant is able to and available for work.

**REMAND:**

The issue of claimant's permanent separation/requalification is remanded to the Benefits Bureau for an initial investigation.



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Jennifer L. Beckman  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

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October 18, 2021  
Decision Dated and Mailed

jlb/kmj

**NOTE TO CLAIMANT:** This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

**ATTENTION:** On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>