

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARC H SHOWALTER**  
Claimant

**APPEAL NO. 11A-UI-15599-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CDS GLOBAL INC**  
Employer

**OC: 11/06/11**  
**Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated December 5, 2011, reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on January 5, 2012. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate. Exhibit A was admitted into evidence.

**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 having considered all of the evidence in the record, finds: Claimant was taken off work due to non-work-related health issues May 5, 2011. Claimant was released to return to work November 9, 2011 with a permanent 20-pound lifting restriction. Claimant can find gainful employment with the 20-pound lifting restriction. Claimant has prior training and experience to perform work with a 20-pound lifting restriction.

**REASONING AND CONCLUSIONS OF LAW:**

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 96.19, 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".

Inasmuch as the injury was not work-related and the treating physician has released the claimant to return to work, the claimant has established the ability to work. Benefits shall be allowed effective November 6, 2011.

**DECISION:**

The decision of the representative dated December 5, 2011, reference 01, is reversed. Claimant is eligible to receive unemployment insurance benefits, effective November 6, 2011, provided claimant meets all other eligibility requirements.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/kjw