

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON J LAMBERT
Claimant

APPEAL NO: 12A-UI-03429-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAMBRIDGE TEMPOSITIONS INC
Employer

OC: 08/14/11

Claimant: Appellant (4)

Section 96.4-3 – Able and Available
871 IAC 24.22(2)j – Leave of Absence

STATEMENT OF THE CASE:

Jason J. Lambert (claimant) appealed a representative's April 3, 2012 decision (reference 05) that concluded he was not qualified to receive unemployment insurance benefits in connection with Cambridge Tempositions, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 18, 2012. The claimant participated in the hearing. Elaine Pruett appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

Was there period of voluntary unemployment through a leave of absence?

FINDINGS OF FACT:

The employer is a temporary employment firm. After a prior period of employment with the employer, the claimant most recently began taking assignments with the employer on August 17, 2011. As of September 29, 2011, he started worked full-time as a general laborer on the second shift at the employer's food handling facility. He continued to work on the assignment at least as of the date of the hearing.

However, the claimant was not actively working on the assignment for the period of February 16 through March 19. This was because, after work on February 15, the claimant fractured his arm when his car slipped out of gear while the claimant was in the parking lot of the business client. He had a doctor's note requiring him to stay off work completely from February 16 through March 6, and then as of March 6 he had restrictions that would have allowed for light duty but which required him to wear a wrist splint. Because of the sanitary issues involved with the wearing of a splint working around food, and because the injury did not occur while working, the employer could not allow the claimant to work with those restrictions. The restrictions were

lifted as of March 20, and the claimant returned to actively working the assignment as of that date.

REASONING AND CONCLUSIONS OF LAW:

There was not a full separation from employment as was determined in the representative's decision. Rather, there was a temporary separation due to a de facto medical leave of absence. For each week for which a claimant seeks unemployment insurance benefits, he must be able and available for work. Iowa Code § 96.4-3. In general, an employee who is only temporarily separated from his employment due to being on a leave of absence is not "able and available" for work during the period of the leave, as it is treated as a period of voluntary unemployment. 871 IAC 24.22(2)j; 871 IAC 24.23(10).

The claimant's unemployment from February 16 through March 19 was due to his being on a leave of absence due to a non-work-related medical issue. As the condition causing his temporary unemployment was not related to the work environment, in order to be sufficiently well for the claimant to regain his eligibility status as being able and available for work, he must have a complete recovery to full work duties without restriction. *Hedges v. Iowa Department of Job Service*, 368 N.W.2d 862, 867 (Iowa App. 1985); Iowa Code § 96.5-1-d. Unemployment insurance benefits are not intended to substitute for health or disability benefits. *White v. Employment Appeal Board*, 487 N.W.2d 342 (Iowa 1992). For the period the claimant is seeking unemployment insurance benefits from February 16 through March 19, he was under sufficient work restrictions as would preclude him from returning to his regular work duties. He is therefore not eligible to receive unemployment insurance benefits for that period.

DECISION:

The representative's April 3, 2012 decision (reference 05) is modified in favor of the claimant. There was no full separation from employment, but the claimant was not able and available for work through the benefit period ending March 17, 2012, and the period of temporary separation was a period of voluntary unemployment not attributable to the employer. The claimant is not qualified to receive unemployment insurance benefits for the period from February 16, 2012 through March 17, 2012.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw