

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THEODORE E LAMPKIN
Claimant

APPEAL NO: 18A-UI-08333-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 07/08/18
Claimant: Appellant (1R)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions
Iowa Admin. Code r. 871-24.25(35) – Separation Due to Illness or Injury

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 30, 2018, (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 28, 2018. The hearing was held jointly with Appeal 18A-UI-08332-JC-T. The claimant participated personally.

The administrative law judge took official notice of the administrative records including the fact-finding documents. 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:

Is the claimant able to work and available for work effective July 8, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was last employed full-time as a packager for NCS Pearson Inc. until March 12, 2018.

The claimant has a history of arthritis and pain in his neck and both shoulders. He has stated the duration of his employment has been in physical labor type positions such as construction, packaging, setting up concerts, etc. Currently, he is unable to do any kind of physical labor based upon his pain. He is not seeking medical care because he cannot afford it, and cannot take over-the-counter pain medication due to his kidneys. He does use topical Aspercreme for pain management. The claimant stated he cannot perform duties that require repetitive action. The claimant did not present any medical documentation outlining any restrictions, but stated his job search includes part-time work only due to his pain, and “trying to do as little as possible”.

The claimant's recent job searches have included contact with staffing companies. The claimant has stated he is not qualified to perform the kinds of jobs associated with staffing companies because they require physical labor. For the week ending August 25, 2018, the claimant made only one job search contact, in the form of a phone call to Kelley Services.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant has not established he is able to work and available for work effective July 8, 2018.

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 claimant has the burden to show he is able to work, available for work, and earnestly and actively seeking work. The unemployment insurance rules require that an individual be physically and mentally able to work in some full time gainful employment, not necessarily in the individual's customary occupation, but a job which is engaged in by others as a means of livelihood. 871 IAC 24.22(1).

Iowa Admin. Code r. 871-24.23(1) provides:

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

- (1) An individual who is ill and presently not able to perform work due to illness.

In this case, the evidence fails to establish the claimant is able to and available for work as defined by the unemployment insurance law. The credible evidence presented is the claimant has some significant medical issues and has not established he is able to work at this time. The claimant failed to establish what jobs he can perform in light of his arthritis and pain in his shoulders and neck. The claimant acknowledged he has been applying for positions primarily through staffing agencies but cannot perform assignments due to his physical limitations and pain. Due to the claimant's physical limitations at this time, medical documentation is necessary to support a determination that the claimant is able to work. Accordingly, benefits are denied.

REMAND: The issue of whether the claimant made an adequate job search for the week ending August 25, 2018 is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The July 30, 2018, (reference 02) decision is affirmed. The claimant is not able to work and available for work effective July 8, 2018. Benefits are denied until the claimant presents the agency documentation from his medical care provider releasing him to return to work. **REMAND:** The issue of whether the claimant made an adequate job search for the week ending August 25, 2018 is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn