

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRINIDAD B CORONA
Claimant

APPEAL NO. 07A-UI-09437-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

UNITED CONTRACTORS INC
Employer

**OC: 12/24/06 R: 02
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 2, 2007, reference 01, decision that denied benefits. After hearing notices were mailed to the parties' last-known addresses of record a telephone hearing was held on October 23, 2007. The claimant was represented by Robert Wright, Jr., and participated personally through Oliver Koch, Interpreter. The employer did not provide a telephone number where it could be reached and, therefore, did not participate in the hearing.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired in 2000, as a full-time laborer. The claimant was injured at work in mid-March 2007. He returned to work with restrictions until July 2007. The employer laid the claimant off for lack of work. The claimant is able to work with a 20-pound lifting restriction.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

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".

871 IAC 24.23(1) and (35) provide:

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.

(35) Where the claimant is not able to work and is under the care of a physician and has not been released as being able to work.

Inasmuch as the injury was work-related and the treating physician has released the claimant to return to work, even with restrictions the claimant has established his ability to work. Because the employer had no work available or was not willing to accommodate the work restrictions, benefits are allowed.

DECISION:

The representative's October 2, 2007 decision (reference 01) is reversed. The claimant is able to work and available for work. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css