

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSEPH A GUTHEIL
Claimant

APPEAL NO: 13A-UI-14142-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

**OC: 08/25/13
Claimant: Respondent (1)**

Iowa Code § 96.4(3) – Able to and Available for Work

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 18, 2013 determination (reference 03) that held the claimant eligible to receive benefits as of December 15, 2013, because he was then medically able to work. The claimant participated at the January 16 hearing. Noah Mayer, the cross dock manager, and Heidi Lensch, the human resource coordinator, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is medically able to and available for work as of December 15, 2013.

ISSUE:

When was the claimant released to return to work?

FINDINGS OF FACT:

The claimant was working for the employer when he went on a medical leave of absence on August 17, 2013. The claimant's leave of absence ended on October 2, 2013.

On October 2, the claimant contacted the employer to report he had not been released to work. The claimant talked to J. who told the claimant that if he did not clock in on October 3, he would no longer have a job. The claimant was not released to work by his physician until December 16, 2013. The claimant did not report to work on October 3 because he had not been released to work. The employer sent the claimant an October 15 letter informing him that since he had not returned to work after October 3 he no longer worked for the employer.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4(3). The facts establish that after the claimant was approved to go on a medical leave of absence, he was not released to return to work until December 16, 2013. As of December 15, 2013, the claimant established that he is able to and available for work and eligible to receive benefits.

The employer stated during the hearing that the claimant did not advise the employer when he had been released to return to work. Where an employee does not voluntarily quit but was terminated while absent under medical care, the employee is allowed benefits and is not required to return to the employer and offer services pursuant to Iowa Code § 96.5(1)d. *Prairie Ridge Addiction Treatment Servs. v. Jackson and Emp't Appeal Bd.*, 810 N.W.2d 532 (Iowa Ct. App. 2012). Since the employer informed the claimant in mid-October that he was no longer an employee, he was not obligated to inform the employer when he was released to work.

DECISION:

The representative's December 18, 2013 determination (reference 03) is affirmed. The claimant was on a medical leave of absence as of August 18, 2013. Even though his leave of absence ended on October 2, the claimant's doctor did not release him to work until December 16, 2013. As of December 15, the claimant is able to and available for work; and he is eligible to receive benefits, if he meets all other eligibility requirements.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs