

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY L RASMUSSEN
Claimant

APPEAL NO. 14R-UI-05067-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/13/13
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Gary Rasmussen (claimant) appealed a representative's February 7, 2014, decision (reference 03) that denied unemployment insurance benefits. This administrative law judge issued a decision on March 5, 2014, affirming the representative's decision. A decision of remand was issued by the Employment Appeal Board on May 16, 2014. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on June 5, 2014. The claimant did participate. Exhibit D-1 was admitted into evidence.

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 worked for Bossard from 2001, to October of 2012, as a full-time general warehouse laborer. On November 20, 2012, the claimant was assaulted and suffered an eye injury. This injury was non-work related. The claimant took Family Medical Leave and had eye surgeries on November 21, 2012, and January 7, 2013. Bossard separated the claimant from employment on January 7, 2013.

The claimant's physician has restricted the claimant to part-time work and work that does not involve heavy machinery or hazardous chemicals. The claimant cannot think of any work he can perform with the physician's restrictions.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is not available for work.

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.

When an employee has a medical condition and is unable to perform work due to that condition, he is considered to be unavailable for work. As of the date of the hearing the claimant has thought of no work he can perform for any employer with his medical restrictions. He is considered to be unavailable for work as of January 13, 2013. The claimant is disqualified from receiving unemployment insurance benefits beginning January 13, 2013, due to his unavailability for work.

DECISION:

The representative's February 7, 2014, decision (reference 03) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work with the employer.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css