

USA, Inc. on November 28, 2004 as a full-time press apprentice. His last day at work was May 1, 2005. He has been off work since that time because of neck and back pain. Mr. Endicott had suffered a work-related injury to his back in 1994 while working for Douglas and Lomason. He first began experiencing problems again in February of 2005.

Mr. Endicott was released to work on May 6 but was advised by his doctor not to lift more than 50 pounds. He was also advised not to perform any crawling. He was to sit and stand as tolerated. The employer did not have work available within these restrictions. As of July 14, he was restricted to lifting no more than ten pounds. He was told not to do any repetitive bending, twisting, or squatting. The employer had no work within these restrictions. His doctor has also recommended that Mr. Endicott not work around machinery because of his medications. The doctors are of the opinion that Mr. Endicott's work with Fres-Co System USA, Inc. may have aggravated his prior injury.

The employer does not have any work in the facility that could accommodate Mr. Endicott's restrictions. He cannot currently return to any of the work he has performed in the past. He has his GED with additional training in auto body work. He is not currently able to engage in auto body work. He has sought work detailing cars and working as a cashier. Mr. Endicott is not incapacitated from all work activity.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Endicott is able to work within the intent and meaning of Iowa Code section 96.4(3). The law does not require that he be able to return to former occupations, only that he be able to engage in some work activity that is engaged in by others as a means of livelihood. 871 IAC 24.22(1). The administrative law judge believes there are a number of sedentary jobs Mr. Endicott could perform without violating his doctor's orders. He could work in a fast-food environment where the exertional requirements are consistent with his limitations. He could also work as a cashier in a retail establishment without violating his doctor's orders. Inasmuch as Mr. Endicott's condition does not preclude all work activity, it is concluded that he is able to work as required by law.

DECISION:

The representative's decision dated August 31, 2005, reference 02, is hereby reversed. Mr. Endicott was able to work effective July 31, 2005. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/kjw