

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GREGORY W VERSCHELDE**  
Claimant

**APPEAL NO. 13A-UI-12221-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/17/13  
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the October 25, 2013, (reference 05) unemployment insurance decision that denied benefits effective September 15, 2013, based upon claimant's ability to and/or availability for work. The party was properly notified about the hearing. A telephone hearing was scheduled to be held on November 21, 2013. Claimant responded to the hearing notice instruction but no hearing was held as there was sufficient evidence in the appeal letter and accompanying documents to resolve the matter without testimony.

**ISSUE:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was injured at work and reached maximum medical improvement (MMI) on September 16, 2013. His treating physician Alexander Pruitt M.D. released him to work with permanent restrictions. (See attachment to appeal letter.)

**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), (35) 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.

(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.

Although claimant may not be able to perform his job for his former employer, even with restrictions the claimant has established his ability to work in other employment. Benefits are allowed.

**DECISION:**

The representative's decision dated October 25, 2013, (reference 05) is reversed. The claimant is able to work and available for work effective September 15, 2013. Benefits are allowed, provided he is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs