

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

LYNNEILN N FUNDERBURK
Claimant

APPEAL NO. 15A-UI-04847-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

**OC: 03/22/15
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the representative's decision dated April 16, 2015, reference 02, which denied unemployment insurance benefits effective March 22, 2015 finding that the claimant was unduly limiting his availability for work. A telephone hearing was scheduled for and held on June 2, 2015. The parties waived notice on the able and available issue. The claimant participated. The employer participated by Ms. Coleen McGuinty; Unemployment Benefits Administrator; Mr. Eddie Smith, Branch Manager; and Mr. Tanner McCutcheon, Customer Service Representative.

ISSUE:

At issue is whether the claimant is able and available for work within the meaning of the Iowa Employment Security Law.

FINDINGS OF FACT:

The administrative law judge, having considered all the evidence in the record, finds: Lynneiln Funderburk was most recently employed by L A Leasing from March 10, 2015 through March 19, 2015 when he completed his most recent work assignment. Mr. Funderburk was contacted on April 6, 2015 and offered a job assignment for the following day. Mr. Funderburk accepted the job assignment at the Rock-Tenn location but did not report for the assignment as agreed. When contacted, he indicated that he was not able to work because of an automobile accident and was undergoing physical therapy. The claimant also indicated that he no longer had personal transportation due to the automobile accident.

It is the claimant's position that in addition to being injured in a non-work-related automobile accident that had occurred during this time, that he would not be able to accept assignments that were not within walking distance because he had temporarily lost his transportation because of a car wreck. The claimant is in agreement that his physical injuries in a non-work-related car wreck had affected his health and caused him to decline offers of work at that time.

REASONING AND CONCLUSIONS OF LAW:

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

An otherwise eligible claimant is eligible to receive benefits with respect to any week only if the evidence indicates that the individual is able to work, is available for work, and is earnestly and actively seeking work. Iowa Code section 96.4(3) and 871 IAC 24.22. The claimant bears the burden of establishing that the claimant meets the above requirements. 871 IAC 24.22.

To satisfy the ableness requirement, an individual must be physically and mentally able to work in some gainful employment, which is engaged in by others as a means of livelihood. With regard to illness or injury each case is decided on an individual basis recognizing the various work opportunities present different physical requirements. 871 IAC 24.22(1)(a).

To satisfy the availability requirement, the individual must be willing, able, and ready to accept suitable work which the individual does not have good cause to refuse and must be generally attached to the labor market. Although individuals may place some limitations on the type of work they are willing to accept, the limitations must not affect the claimant's ability to promptly accept otherwise suitable work that is offered to the claimant.

In the case at hand, the evidence in the record establishes that Mr. Funderburk's limitations both with respect to transportation to and from work and medical limitations were because he had been injured and was unable to report for job assignments and because of prescribed physical therapy.

Based upon the evidence in the record the administrative law judge concludes that the claimant's medical limitations and his lack of transportation unduly limited his availability for work and ability to work. The administrative law judge thus concludes that the claimant has not been able and available for employment since establishing his claim for unemployment insurance benefits and therefore is ineligible for benefits.

DECISION:

The representative's decision dated April 16, 2015, reference 02, is affirmed. The claimant is not able and available for work since establishing his claim for benefits and is ineligible to receive unemployment insurance benefits until such time as the circumstances have changed and the claimant establishes with Workforce Development that he is able and available for work.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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