

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANNIE L JORGENSON
Claimant

APPEAL NO: 11A-UI-00750-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TPI IOWA LLC
Employer

OC: 12/19/10
Claimant: Appellant (1)

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

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's January 14, 2011 determination (reference 01) that held he was not eligible to receive benefits as of December 19, 2010, because of an injury. The claimant participated in the hearing. Prior to the hearing, the employer contacted the Appeals Section to let the administrative law judge know the employer was not going to participate in the hearing.

Although a separation issue was listed on the hearing notice as an issue, the claimant has not had an employment separation; he still works for the employer. The only issue the claimant appealed was whether he was eligible for three weeks in December when he had a 20-pound lifting restriction. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits from December 19, 2010, through January 8, 2011.

ISSUE:

As of December 19, 2010, is the claimant able to and available to work?

FINDINGS OF FACT:

The claimant has worked over two years for the employer in the maintenance department. The claimant had hernia surgery on December 10, 2010. On December 17, the claimant's doctor released him to return to work immediately with a 20-pound weight restriction. The claimant's doctor released him to work without any work restrictions on January 10, 2011. The claimant returned to his full time job with the employer on January 10, 2011.

After the claimant's doctor released him to work on December 17 with work restrictions, he contacted the employer and asked if he could work with his restrictions. The claimant believed 95 percent of his work did not require him to lift more than 20 pounds. If he had to lift more than 20 pounds while he worked, he would have asked for help from his co-workers. The employer did not allow the claimant to return to work until he was fully released to work without any work restrictions.

The claimant established a claim for benefits during the week of December 19, 2010.

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). Even though the claimant's doctor released him to work on December 17, it was with a 20-pound lifting restriction. The employer's decision that the claimant could not return to work until he had no work restrictions was reasonable. Since the claimant had some work restrictions while he recovered from his surgery, the employer is not required to accommodate his restrictions. For unemployment insurance purposes, the claimant is not eligible to receive benefits for the weeks ending December 25, 2010, through January 8, 2011.

DECISION:

The representative's January 14, 2011 determination (reference 01) is affirmed. As a result of the 20-pound work restriction he had while he recovered from his surgery, the claimant is not eligible to receive benefits for the weeks ending December 25, 2010 through January 8, 2011.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs