

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEREMY A BLOM**  
Claimant

**APPEAL NO. 06A-UI-09882-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JELD-WEN INC**  
Employer

**OC: 12/25/05 R: 02  
Claimant: Appellant (1)**

Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

Jeremy Blom filed a timely appeal from the October 5, 2006, reference 07, decision that denied benefits effective September 3, 2006 and found that Mr. Blom was not able to work as of September 3, 2006. After due notice was issued, a hearing was held on November 2, 2006. Mr. Blom participated. Production Manager Brad Harris represented the employer. Employer's Exhibits One, Two and Three were received into evidence. The administrative law judge took official notice of the Agency's administrative file.

**ISSUES:**

Whether Mr. Blom has been able to work and available for work since September 3, 2006.  
Whether Mr. Blom was able to work during the benefit week of September 3-9, 2006. He was not.  
Whether Mr. Blom has been "available" for work, as that term is defined by the applicable Workforce Development rule, since returning to the employment at Jeld-Wen on September 11, 2006. He has not been available.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Jeremy Blom commenced full-time employment as a laborer with Jeld-Wen on October 24, 2005 and continues in that employment. Mr. Blom was absent from work due to illness on September 5-8, 2006. Mr. Blom was experiencing problems with his hip that prevented him from being able to work. Mr. Blom consulted a doctor and received treatment, including medication, to address the condition. Mr. Blom reported the absences to the employer at the time they occurred and provided a doctor's excuse that covered all but September 5. Mr. Blom returned to work September 11, 2006 and continues in the full-time employment as of the date of the hearing.

Mr. Blom made some sort of inquiry or had some sort of contact with Iowa Workforce Development in connection with the absence from work. That contact resulted in a Notice of Claim being issued to the employer on September 11, 2006 and the subsequent reference 07 decision that Mr. Blom was not able and available for work effective September 3, 2006.

Mr. Blom had not in fact called in a claim for benefits for the week in question and did not receive any benefits in connection with the period of absence.

**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 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 24.22(1)a, (2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

871 IAC 24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The evidence in the record indicates that Mr. Blom was physically unable to work during the week of September 3-9, 2006. Accordingly, Mr. Blom would not have been eligible for benefits during that period. See Iowa Code section 96.4(3) and 871 IAC 24.22(1)(a). The evidence further indicates that Mr. Blom has been employed by Jeld-Wen on a full-time basis since returning to work on September 11, 2006. Based on the continued full-time employment, Mr. Blom has been otherwise removed from the labor market. Accordingly, Mr. Blom has not been "available" for work, as that term is defined by Workforce Development rule 871 IAC 24.23(23) and would not have been eligible for benefits from September 11 up to the present. This conclusion in no way determines Mr. Blom's eligibility or disqualifies Mr. Blom for benefits in the future. If and when Mr. Blom applies for benefits in the future, his eligibility for benefits will be determined based on the circumstances in existence at that time.

**DECISION:**

The Agency representative's October 5, 2006, reference 07, decision is affirmed. The claimant was not able to work September 3-9, 2006. The claimant has not been "available" for work since returning to his full-time employment on September 11, 2006.

---

James E. Timberland  
Administrative Law Judge

---

Decision Dated and Mailed

jet/pjs