

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LOGAN R MCGRANE
Claimant

APPEAL NO. 08A-UI-03875-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**EAST PENN MANUFACTURING CO INC
DEKA BATTERIES**
Employer

OC: 03/09/08 R: 04
Claimant: Appellant (4)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 15, 2008, reference 02, which held claimant not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on May 6, 2008. Claimant participated personally. Employer was not contacted because the number provided did not work. Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant was off work due to a non-work-related injury. Claimant was given a sit-down-only work release March 9, 2008. Employer refused to accommodate the work release because the injury was not work related. Claimant was given a full-duty work release April 30, 2008.

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".

Inasmuch as the illness was not work-related and the treating physician had not released the claimant to return to work, the claimant has not established the ability to work prior to April 30, 2008. Benefits are withheld until claimant obtained the full medical release to return to work. Benefits shall be allowed effective April 30, 2008.

DECISION:

The decision of the representative dated April 15 2008, reference 02 is modified. Claimant is eligible to receive unemployment insurance benefits, effective April 30, 2008, provided claimant meets all other eligibility requirements. Benefits shall be withheld prior to April 30, 2008.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw