

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANE D DUMIRE
Claimant

APPEAL NO. 13A-UI-00669-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING INC
SEDONA STAFFING**
Employer

**OC: 12/09/12
Claimant: Respondent (1)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Sedona Staffing (employer) appealed a representative's January 11, 2013 decision (reference 03) that concluded Shane Dumire (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 14, 2013. The claimant was represented by Ryan Beattie, Attorney at Law, and participated personally. The employer participated by Colleen McGuinty, Unemployment Benefits Administrator, and Margo Bojorquez, Branch Manager.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant performed services from December 19, 2007, through August 5, 2012. He signed a document on an unknown date indicating that he was to contact the employer within three days following the completion of an assignment to request placement in a new assignment. The claimant does not remember signing the document. The claimant suffered a work-related injury on July 24, 2012. From July 24 through September 17, 2012, the claimant was released to work with restrictions by his physician.

The claimant was assigned to work at Mills Manufacturing from April 2 through August 1, 2012. The claimant was unavailable for work from August 2 through August 20, 2012, because he requested time off due to the impending birth and birth of his child. On August 21, 2012, the assignment at Mills Manufacturing ended.

The claimant called the employer on August 27, 2012, to ask for work. The employer told the claimant to come into the office on August 31, 2012. The employer discussed the situation with the claimant and no work was available. The employer asked the claimant to come into the

office again on September 4, 2012. The claimant signed a document on September 4, 2012, indicating he accepted light-duty office work at the employer's office starting September 5, 2012, with working hours of 9:00 a.m. to 5:00 p.m. with an hour lunch break. On September 5, 2012, the claimant appeared for work at 9:00 a.m. The claimant left work after four hours stating the work was boring and he needed to help his wife job hunt. The claimant did not appear for work after September 5, 2012. The employer considered the claimant to have quit after September 5, 2012.

On September 19, 2012, the claimant was released to return to work without restrictions by his physician.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able and available for work.

871 IAC 24.23(1) 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.

When an employee is ill and unable to perform work due to that illness, he is considered to be unavailable for work. The claimant was released to return to work without restrictions by his physician. He is considered to be available for work because his physician stated he was able and available for work. The claimant is not disqualified from receiving unemployment insurance benefits.

DECISION:

The representative's January 11, 2013 decision (reference 03) is affirmed. The claimant is not disqualified from receiving unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/tll