

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHAD M MCALLISTER
Claimant

APPEAL NO: 07A-UI-04911-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DONOHOO STEEL TREATING CO
Employer

OC: 04/15/07 R: 04
Claimant: Respondent (1)

Iowa Code § 96.4(3) - Able and Available

STATEMENT OF THE CASE:

The employer filed a timely appeal from the May 11, 2007, reference 04, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on June 20, 2007. Claimant participated. Employer participated through Bill Donohoo and Jim Clausen.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant had been off work since December 15, 2006 when he was hospitalized for about two weeks for a non-work-related illness. The doctor did not want him returning to work since there were side effects from the medication so he ended up back in the hospital in March for another three weeks. His physician released him to return to work on or about April 15, 2007 without medications or restrictions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

Iowa Code § 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(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.

(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.

Claimant has no medical restriction or other limitation on his employability effective April 15, 2007. Accordingly, benefits are allowed.

DECISION:

The May 11, 2007, reference 04, decision is affirmed. The claimant is able to work and available for work effective April 15, 2007. Benefits are allowed.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs