

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MICHAEL EDWARDS**  
Claimant

**BLACKHAWK SERVICES CORP**  
Employer

**APPEAL 22A-UI-02794-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/28/21  
Claimant: Respondent (2)**

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

**STATEMENT OF THE CASE:**

Employer filed an appeal from the January 7, 2022 (reference 02) unemployment insurance decision that allowed benefits effective December 5, 2021. The parties were properly notified of the hearing. A telephone hearing was held on February 25, 2022. Claimant did not participate. Employer participated through Amber Meadows, Hearing Representative, and Lori Gray, Human Resources Manager. Employer's Exhibits 1 through 3 were admitted. Official notice was taken of the administrative record.

**ISSUE:**

Whether claimant is able to and available for work.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant is employed as a full-time Production Worker with Blackhawk Services Corporation. Claimant last performed work for employer on October 6, 2021, when he was injured at work. On December 29, 2021, claimant's physician released claimant to return to work with restrictions. Employer was willing to accommodate these restrictions. Claimant did not return to work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes:

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 96.1A,

subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

Iowa Admin. Code r. 871-24.22(1), (2) provide in pertinent part:

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.

Claimant sustained a work-related injury on October 6, 2021. Claimant was released to return to work with restrictions effective December 29, 2021. Employer was willing to accommodate claimant's restrictions. From October 6, 2021 until December 29, 2021, claimant was not able to work as he was under the care of a physician and had not been released to return to work. Effective December 29, 2021, claimant was not available for work because he was not willing to accept suitable work that employer had available within his restrictions. Claimant has not met his burden of proving that he is able to and available for work. Accordingly, benefits are denied.

**DECISION:**

The January 7, 2022 (reference 02) unemployment insurance decision is reversed. Claimant is not able to and available for work. Benefits are denied effective October 6, 2021 and continuing until claimant establishes that he is able to and available for work.



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March 11, 2022  
Decision Dated and Mailed

acw/ACW