

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**SEUANG LOVAN**  
Claimant

**BRIDGESTONE AMERICAS TIRE**  
Employer

**APPEAL 21A-UI-14048-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/21/21  
Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the June 11, 2021 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on August 16, 2021, at 1:00 p.m. Claimant participated along with his wife Kay Lovan. Employer did not participate. Claimant's Exhibits 1 – 3 were admitted.

**ISSUE:**

Whether claimant is able to and available for work.

**FINDINGS OF FACT:**

As claimant was the only witness, the administrative law judge makes the following findings of fact based solely upon claimant's testimony: Claimant is employed as a full-time Master Utility with Bridgestone Americas Tire. On March 2, 2020, claimant injured his back while at work. Claimant received treatment for his injury including surgery and physical therapy.

On February 2, 2021, claimant's treating physician issued a Patient Status Report with permanent restrictions, including: no lifting more than 35 pounds, no repetitive twisting or bending, and no long periods of sitting, walking or stair-climbing.

On February 10, 2021, employer sent claimant home from work because it received the Patient Status Report and learned that the light duty work claimant had been performing was not within the restrictions. On February 26, 2021, employer advised claimant that it did not have work for claimant to perform within his restrictions.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant is able to and available for work. Benefits are allowed provided claimant is otherwise eligible.

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".

Claimant sustained a work-related injury. A physician released claimant to return to work with restrictions. Claimant was able to and available for work within those restrictions. Employer had no work available within the restrictions. Accordingly, benefits are allowed provided claimant is otherwise eligible.

**DECISION:**

The June 11, 2021 (reference 01) unemployment insurance decision is reversed. Claimant is able to and available for work. Benefits are allowed provided claimant is otherwise eligible.



---

Adrienne C. Williamson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

August 20, 2021  
Decision Dated and Mailed

acw/ol