

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JERRY BRANNON
Claimant

APPEAL NO: 17A-UI-01694-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC
Employer

OC: 01/08/17
Claimant: Appellant (4)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 9, 2017, reference 04, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 8, 2017. The claimant participated in the hearing. Rhonda Hefter de Santisteban, Human Resources Manager and Krystal Hauersperger, Area Manager, participated in the hearing on behalf of the employer. Employer's Exhibit 1 was admitted into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time production employee for QPS Employment Group last assigned to Associated Materials from September 13, 2016 to January 13, 2017. The claimant completed that assignment after he was injured on the job January 13, 2017.

The claimant worked light duty for the employer until he was released to return to work without restrictions February 7, 2017. The employer has not had any assignments available to the claimant since February 7, 2017.

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 effective February 7, 2017.

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".

Iowa Admin. Code r. 871-24.23(35) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(35) Where the claimant is not able to work and is under the care of a physician and has not been released as being able to work.

Inasmuch as the injury is considered work-related for the purposes of unemployment insurance benefits only and the treating physician has released the claimant to return to work, even with restrictions, the claimant has established his ability to work. The employer provided the claimant light duty work through February 7, 2017, at which time he received a full release to return to work without restrictions. Because the employer accommodated the claimant's work restrictions through his full medical release date but did not have any work available after February 7, 2017, benefits are allowed effective the week ending February 11, 2017.

DECISION:

The representative's decision dated February 9, 2017 (reference 04) is modified in favor of the claimant. The claimant is able to work and available for work effective February 7, 2017. Benefits are allowed effective the week ending February 11, 2017, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/rvs