

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**CHRISTIAN A ZULAUF
PO BOX 262
KALONA IA 52247-0262**

**BOCKENSTEDT EXCAVATING INC
PO BOX 2116
IOWA CITY IA 52244-2116**

**Appeal Number: 04A-UI-01604-AT
OC: 01-04-04 R: 03
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Medically Able to Work

STATEMENT OF THE CASE:

Christian A. Zulauf filed a timely appeal from an unemployment insurance decision dated February 3, 2004, reference 09, which denied benefits to him upon a finding that he was not medically able to work. After due notice was issued, a telephone hearing was held March 1, 2004 with Mr. Zulauf participating. Office Manager Barbara Campbell participated for the employer, Bockenstedt Excavating.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Christian A. Zulauf last performed services for Bockenstedt Excavating, Inc. on December 16, 2003. He has not been employed anywhere since that date. Mr. Zulauf suffers from seizures. He is working with his physician to find a combination of medications which will control the seizures while allowing him to work.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Zulauf meets the eligibility requirement of being medically able to work. He does not.

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".

The evidence in this record establishes that Mr. Zulauf is still suffering from seizures which are not yet under controlled. Under these circumstances, he is not able to work. He is advised to contact his local Workforce Development center when he and his physician have found the proper combination of medications to control his medical condition and allow him to return to employment.

DECISION:

The unemployment insurance decision dated February 3, 2004, reference 09, is affirmed. Benefits are withheld effective January 11, 2004 until such time as the claimant establishes that he is medically able to work.

sb/b