

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEREMY R RAINES
Claimant

HY-LINE NORTH AMERICA LLC
Employer

APPEAL 19A-UI-06146-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/26/19
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

On August 5, 2019, the claimant filed an appeal from the August 2, 2019, (reference 03) unemployment insurance decision that denied benefits based on claimant's ability to work. The parties were properly notified about the hearing. A telephone hearing was held on August 26, 2019. Claimant participated. Employer participated through location manager Clayton Sexton and human resource manager Jill Hoffman. Claimant's Exhibit A was admitted into the record after receiving no objection from employer.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was recently diagnosed with sciata pain in his left lower back. On May 22, 2019, his medical provider gave him restrictions of no prolonged standing, walking, bending, or twisting. The provider also restricted claimant from lifting more than ten pounds.

On May 24, 2019, claimant was separated from employment.

The restrictions remained in effect until August 26, 2019, when claimant was released to work with no restrictions.

Claimant has job experience in production and the restaurant industry.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work from May 26, 2019, through August 26, 2019.

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".

Iowa Admin. Code r. 871-24.22(1)a 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.

(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.

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 medical practitioner and has not been released as being able to work.

To be able to work, "[a]n 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." *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1). "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides." *Sierra* at 723.

In this case, claimant has not established he would have been able to perform work from May 26 through August 26, 2019, when he had restrictions that would have prevented him from working in any of the fields in which he has experience. A production worker must be able to lift

more than ten pounds, stand, bend, and twist in order to adequately perform the essential functions of the job. Most of these physical requirements are also true of the restaurant industry.

Effective August 26, 2019, claimant has been released to work with no restrictions, and he is therefore considered able to and available for work at that time.

DECISION:

The August 2, 2019, (reference 03) unemployment insurance decision is modified in favor of claimant. The claimant is not able to work and available for work from May 26, 2019, through August 26, 2019. Benefits are denied during that time period. Claimant is able to and available for work effective August 26, 2019. Benefits are allowed after that date, provided claimant is otherwise eligible.

Christine A. Louis
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Decision Dated and Mailed

cal/scn