

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LAWRENCE E TAYLOR**

Claimant

**APPEAL 18A-UI-10785-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QPS EMPLOYMENT GROUP INC**

Employer

**OC: 05/06/18**

**Claimant: Appellant (2)**

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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:**

The claimant filed an appeal from the October 22, 2018, (reference 06) unemployment insurance decision that denied benefits based upon claimant's ability to work. The parties were properly notified about the hearing. A telephone hearing was held on November 15, 2018. Claimant participated personally and through witness Cleaster Malone. Employer participated through placement coordinator Janine Morazan and was represented by Mai Lor. Claimant's Exhibits A and B were received.

**ISSUE:**

Is the claimant able to work and available for work effective May 6, 2018?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant injured his right arm while working for employer on April 23, 2018. The injury has been diagnosed as a work-related injury. Claimant filed a claim for workers' compensation benefits. Employer's insurance carrier is paying for and directing claimant's medical treatment, but claimant is not receiving a weekly workers' compensation benefit.

When he was first injured, claimant had a lifting restriction of ten pounds and was directed not to perform repetitive gripping or grasping with the right hand. The lifting restriction was increased to 30 pounds in June, 2018. The restrictions have not been lifted or modified since that time.

Employer did not have light duty work available for claimant in Iowa City, except in July and August, 2018, when he worked assembling boxes.

Claimant attempted to return to work again in September, 2018, but was told he could not return until he was released to return to work with no restrictions.

**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.

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. 871-24.23(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

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.

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. Because the employer had no work available or was not willing to accommodate the work restrictions, benefits are allowed.

## **DECISION:**

The representative's decision dated October 22, 2018 (reference 06) is reversed. The claimant is able to work and available for work effective May 6, 2018. Benefits are allowed, provided he is otherwise eligible.

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Christine A. Louis  
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Unemployment Insurance Appeals Bureau  
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Des Moines, Iowa 50319-0209  
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Decision Dated and Mailed

cal/scn