

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MATTHEW T JAMES**  
Claimant

**APPEAL NO: 19A-UI-03469-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**VERA FRENCH COMMUNITY MENTAL  
HEALTH**  
Employer

**OC: 04/07/19**

**Claimant: Appellant (1)**

Iowa Code § 96.5(4)3 – Able and Available for Work

**STATEMENT OF THE CASE:**

Matthew T. James, the claimant filed a timely appeal from a representative's unemployment insurance decision dated April 22, 2019, (reference 01) which denied unemployment insurance benefits as of April 7, 2019, finding that the claimant was not able to perform work at that time due to injury. After due notice was provided, a telephone hearing was held on May 15, 2019. Claimant participated. Employer participated by Ms. Shelly Chapman, Human Resource Director. Administrative file was admitted in the hearing record as Department Exhibit 1.

**ISSUE:**

The issue is whether the claimant meets the able and available requirements of the Iowa Employment Security Act.

**FINDINGS OF FACT:**

Having heard the testimony and having considered all of the evidence in the record, the administrative law judge finds: Matthew T. James began employment with Vera French Community Mental Health on June 1, 2010. Mr. James is employed as a full-time maintenance technician and is paid by the hour. On February 26, 2019, Mr. James suffered a broken ankle in a non-work related incident. On March 20, 2019, Mr. James was given a medical status/release to return to work form by his physician. The release limited Mr. James from bearing any weight on his left leg and required Mr. James to wear a cast or splint boot. The limitation also required the claimant be allowed to sit and elevate his leg as needed while at work, and prohibited him from climbing on a ladder.

Based upon Mr. James job position as a maintenance technician, the employer concluded that Mr. James' work limitations prevented him from performing essential parts of his job. Due to the nature of the limitations, no other positions in the organization were available to accommodate Mr. James until he was fully released to return to work.

The claimant had requested a leave of absence under the provisions of the Family Medical Leave Act (FMLA) on February 27, 2019 and his request for the leave of absence was

subsequently approved by the employer. Mr. James was paid sick and vacation pay by the company through March 16, 2019.

Mr. James remained attached to Vera French Community Mental Health Center during the time that he was off work due to his injury and did not seek work with other employers. Mr. James returned to his work with Vera French Community Mental Health when his work limitations had been removed by his doctor.

### **REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes Matthew T. James was able and available for work within the meaning of the Iowa Employment Security law. It does not.

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. 871-24.22(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(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.

Each week that a claimant files a claim for benefits the claimant must be able and available for work. Iowa Code Section 96.4(3). The claimant bears the burden of establishing that he or she was able and available for work.

In the case at hand, Mr. James suffered a non-work injury and was initially medically treated and was deemed unable to work by his physician from February 26, 2019 through March 10, 2019. On March 26, 2019, the claimant's physician provided a medical status/release to return to work form that allowed the claimant to return to work, but imposed substantial work limitations. Because the claimant's job was that of a maintenance technician, the work restrictions effectively precluded Mr. James from doing his job as a maintenance technician. Because the injury was non-work related, the employer had no obligation to allow the claimant to return to work unless he was fully released. The employer explored accommodating the claimant by temporarily placing him in a different job position however, the company had no job positions compatible with the restrictions. Mr. James did not seek employment with other employers. Mr. James returned to work with Vera French Community Mental Health when his temporary work limitations were removed by his physician. During a portion of the time that the claimant was off work, he received pay for three weeks utilizing sick and vacation time that had accrued.

For investigative reasons, because Mr. James did not meet the able and available requirements of the Iowa Employment Security Law, benefits are denied.

**DECISION:**

The representative's unemployment insurance decision dated April 22, 2019, reference 01, denying benefits effective April 7, 2019 upon a finding that the claimant was not able to perform work at that time is affirmed.

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Terry P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

tn/scn