

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**WILLIAM SOTO**  
Claimant

**TPI IOWA LLC**  
Employer

**APPEAL 19A-UI-04009-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/21/19**  
**Claimant: Appellant (2)**

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 May 8, 2019, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was not able to work due to injury. The parties were properly notified of the hearing. A telephonic hearing was held on June 25, 2019. The claimant, William Soto, participated and was represented by Joanie Grife, Attorney at Law. The employer, TPI Iowa, L.L.C., participated through Danielle Williams, Senior Human Resources Coordinator.

**ISSUE:**

Is the claimant able to work and available for work effective April 21, 2019?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began his employment with TPI Iowa, L.L.C., in October 2016. Most recently, claimant has been employed as a full-time laborer on first shift. Claimant is still employed by this employer.

Claimant sustained an injury to his back while working on April 4, 2018. Following this injury claimant saw a worker's compensation doctor. The doctor gave him several restrictions, including: no lifting over 50 pounds; no pushing or pulling over 100 pounds; and avoid repetitive bending and twisting.

Claimant's worker's compensation doctor released him to return to work with no restrictions on March 22, 2019. At this point, the employer closed out claimant's worker's compensation case. Claimant did not believe that he was fully recovered from his injury, so he went to his personal doctor. Claimant's personal doctor gave him several restrictions, including: no lifting, pushing, or pulling of more than 70 pounds; and no repetitive twisting or bending with the lower back. Claimant brought these restrictions to the employer on or about March 25, 2019. He was allowed to return to work at that time.

On April 8, 2019, the employer called claimant into the Human Resources office. During that conversation, the employer informed claimant that since he had restrictions that did not appear to be related to a work-related injury, the employer would not accommodate him. The employer placed claimant on a leave of absence until he could return to work without any restrictions. The employer has not established that claimant's restrictions are due to a non-work-related illness or injury.

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

For the reasons that follow, the administrative law judge concludes claimant is able to work. Benefits are allowed, provided claimant is otherwise eligible.

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.

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.

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.

In this case, the parties agree that claimant suffered a work-related injury in 2018 and was accommodated for approximately one year with modified work. After being released without restrictions prematurely, claimant sought a second opinion and presented to the employer substantially similar work restrictions from his personal doctor. The employer refused to accommodate these restrictions. Therefore, as claimant has been released to return to work with restrictions for a work-related injury in March 2019 and the employer did not make work available to claimant, claimant is able to and available for work.

**DECISION:**

The May 8, 2019, (reference 01) unemployment insurance decision is reversed. Claimant has established he is physically able to work. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

lj/scn