

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEROY C CLABAUGH
Claimant

APPEAL NO. 13A-UI-03244-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 08/12/12
Claimant: Appellant (2)

Section 96.4(3) - Able and Available

STATEMENT OF THE CASE:

The claimant, Leroy Clabaugh, filed an appeal from a decision dated March 11, 2013, reference 02. The decision found him ineligible from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on April 16, 2013. The claimant participated on his own behalf. Exhibit A was admitted into the record.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Leroy Clabaugh filed a claim for unemployment benefits with an effective date of August 12, 2012, and filed an additional claim effective October 7, 2012. He suffered a non-work-related injury to his rotator cuff on September 30, 2012, and was released to return to work without restriction on October 10, 2012, by his doctor.

REASONING AND CONCLUSIONS OF LAW:

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 claimant has presented evidence from his attending physician he is able and available to work without any restrictions.

DECISION:

The representative's decision of March 11, 2013, reference 02, is reversed. Leroy Clabaugh is able and available for work and eligible for unemployment benefits.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs