

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL J FRAZER**  
Claimant

**APPEAL NO. 07A-UI-11202-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 10/21/07 R: 02**  
**Claimant: Appellant (4-R)**

Section 96.4-3 - Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated November 29, 2007, reference 02, that concluded he was unable to work as of October 24, 2007. A telephone hearing was held on December 18, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Andre Smith participated in the hearing on behalf of the employer. Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim, which show the claimant has been classified as a temporarily laid off worker who is not required to register for work or make two job contacts. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

**ISSUE:**

Was the claimant able to and available for work?

**FINDINGS OF FACT:**

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer on an assignment at Winnebago Industries from January 29, 2007, to October 19, 2007, when the assignment was completed.

Over the weekend of October 20, the claimant's right hand became swollen due to an infection. As a result, the claimant was unable to work during the week of October 21. A staffing consultant called the claimant on October 24. The employer had a job available at Wood Harbor, but did not offer the claimant the job because he said he was not able to work due to his swollen hand.

The claimant began taking antibiotics and recovered from his illness during the week of October 29, 2007. He was able to work effective October 29, 2007.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code section 96.4-3. The evidence establishes the claimant was unable to work during the week of October 21 through October 28, 2007, but recovered and was able to work as of October 29, 2007. The employer admitted that the claimant was not actually offered the Wood Harbor job because the claimant had indicated that he could not work.

The issue of whether the claimant should be reclassified so that he is required to register for work with Iowa Workforce Development and make two in-person job contacts each week is remanded to the Agency to investigate and make a determination.

**DECISION:**

The unemployment insurance decision dated November 29, 2007, reference 02, is modified in favor of the claimant. The claimant is ineligible for benefits for the week of October 21 through 28. He is qualified for unemployment insurance benefits effective October 29, 2007, if he is otherwise eligible. The issue of whether the claimant should be reclassified so that he is required to register for work with Iowa Workforce Development and make two in-person job contacts each week is remanded to the Agency to investigate and make a determination.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs