

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LYLE A RIGGS**  
Claimant

**APPEAL NO. 07A-UI-07449-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PELLA CORPORATION**  
Employer

**OC: 06-24-07 R: 02  
Claimant: Appellant (1)**

Section 96.4-3 - Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 25, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 20, 2007. The claimant did participate and was represented by David Dixon, Attorney at Law. The employer did not participate.

**ISSUE:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant last worked for Pella Corporation on June 6, 2007 when he quit working due to a non-work-related medical heart problem.

The claimant had a mechanical valve replaced in his heart. His treatment was due to a non-work-related medical condition. The claimant currently has work restrictions that include no fast-paced repetitive work, no lifting over 20 to 25 pounds and no work in environments where the temperature is over 85 degrees. Pella's manufacturing plant is not air conditioned and there is no way for them to provide a temperature below 85 degrees in the plant.

Because claimant's medical restrictions are from a non-work-related injury or illness, Pella is not accommodating the claimant's work restrictions.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is not 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".

871 IAC 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.

871 IAC 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 physician and has not been released as being able to work.

Inasmuch as the illness was not work related and the treating physician has not released the claimant to return to work without work restrictions, the claimant has not established ability to work. An employer is not mandated to accommodate medical restrictions that arise from non-work-related illness or injuries. Benefits are withheld until such time as the claimant obtains a full medical release to return to work.

**DECISION:**

The representative's decision dated July 25, 2007, reference 01, is affirmed. The claimant is not able to work and available for work effective June 6, 2007. Benefits are withheld until such time as the claimant obtains a full medical release to return to work.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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