

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CHARLES W MCMANEMY
Claimant

PREMIER STAFFING INC
Employer

APPEAL NO. 20A-UI-08638-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/24/20
Claimant: Appellant (1)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 13, 2020 reference 04, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on September 3, 2020. Claimant participated personally. Employer participated by Erica Peterson. Claimant's Exhibit A was admitted into evidence.

ISSUES:

Whether claimant is able and available for work?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant stated that his appeal in this matter involved days in early April, 2020. Claimant did not file an original claim in this matter until May 24, 2020. Claimant admitted he had no claim to unemployment benefits versus Premiere Staffing at or around the time of his filing this claim.

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".

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.

As claimant stated that he has been able and available for work since the date of filing of his original claim in this matter, he has been able and available at all times relevant.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he/she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The decision of the representative dated July 13, 2020, reference 04 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective May 24, 2020.



Blair A. Bennett
Administrative Law Judge

September 8, 2020
Decision Dated and Mailed

bab/sam