

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROB L STILES
Claimant

APPEAL NO. 09A-UI-09204-C

**ADMINISTRATIVE LAW JUDGE
DECISION**

**KAISER CONTRACT
CLEANING SPECIALISTS INC**
Employer

**Original Claim: 05/17/09
Claimant: Appellant (2)**

Section 96.4(3) - Able and Available

STATEMENT OF THE CASE:

Rob Stiles filed an appeal from a representative's decision dated June 18, 2009, reference 02, which denied benefits on a finding that he was not able to work because of an injury. After due notice was issued, a hearing was held on July 14, 2009 in Des Moines, Iowa. Mr. Stiles participated personally and offered additional testimony from Diane Stiles. The employer, Kaiser Contract Cleaning Specialists, Inc. (Kaiser), participated by Juan Martinez, Site Manager.

ISSUE:

At issue in this matter is whether Mr. Stiles has satisfied the availability requirements of the law since filing his claim for job insurance benefits effective May 17, 2009.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Stiles began working for Kaiser on November 14, 2008 as a full-time laborer. His last day of work was April 22, 2009. He was off work thereafter because of a pulled muscle in his shoulder. He was released by his doctor on April 24 to perform light-duty work. Since Mr. Stiles' injury was not believed to be work-related, the employer did not provide him with light-duty work. He was not eligible to take a medical leave of absence.

Mr. Stiles has past work experience as a janitor and in packing plants. He can perform work that does not require heavy lifting. His shoulder injury does not preclude all work activity.

REASONING AND CONCLUSIONS OF LAW:

In order to receive job insurance benefits, an individual must be able to work and available for work. Iowa Code section 96.4(3). The law does not require that an individual be able to return to his former job. It only requires that he be able to engage in some type of work activity that is engaged in by others as a means of livelihood. 871 IAC 24.24. Mr. Stiles' doctor has not said that he cannot perform any work. The doctor has only limited him to light-duty work. The fact that he can perform light-duty work establishes that he is able to work.

The administrative law judge believes there are a sufficient number of unskilled jobs in the labor market that Mr. Stiles could perform that would not require him to perform heavy lifting. He could perform bench assembly or light custodial work. He could work as a cashier or at a parts counter. For the reasons cited herein, the administrative law judge concludes that he was able to and available for work as of May 17, 2009. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated June 18, 2009, reference 02, is hereby reversed. Mr. Stiles has satisfied the availability requirements of the law since May 17, 2009. Benefits are allowed, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw