

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**THOMAS L CARRIZALES**

Claimant

**APPEAL NO. 18A-UI-12380-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TRADESMEN INTERNATIONAL LLC**

Employer

**OC: 11/11/18**

**Claimant: Respondent (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Tradesmen International (employer) appealed a representative's December 18, 2018, decision (reference 03) that concluded Thomas Carrizales (claimant) was eligible to receive unemployment insurance benefits as of November 11, 2018. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 14, 2019. The claimant was represented by John Hemminger, Attorney at Law, and participated personally. The employer participated by Meredith Meador, Field Representative, and Emily Kuhn, Recruiter. The claimant offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the claimant is available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from May 29, 2018, to November 1, 2018, as a full-time concrete finisher. For the week ending November 10, 2018, the employer had no work available for the claimant. For the week ending November 17, 2018, the claimant alleged a work-related injury. The employer sent the matter to their workers' compensation provider to handle.

From November 11 until November 28, 2018, the claimant was unable to work because of issues with his back. In addition, he had eighty-percent artery blockage in his right leg and one hundred-percent artery blockage in his left leg. On November 12, 2018, Dr. Chew said the claimant had a pinched nerve due to a recent lumbar spine injury. The claimant reported an incident at work where he landed on his buttocks. On November 28, 2018, his physician said he could not return to work until his vascular doctor cleared him to return.

On December 28, 2018, an advanced registered nurse practitioner wrote a note about the claimant's medical condition saying, "Thomas Carrizales was evaluated on Friday, December 28, 2018. He is okay to return to work for light duty". The claimant took a picture of the document and sent it to the employer's field representative. The field representative did not receive the picture. The claimant did not present himself for work. No determination of whether a work injury occurred has been made.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is not able and available for work.

Iowa Admin. Code r. 871-24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). The claimant testified at the hearing that he was unable to work from November 11 through December 28, 2018. When an employee is medically unable to perform work, he is considered to be unavailable for work. He is considered to be unavailable for work through December 28, 2018.

After December 28, 2018, the claimant must provide a full-release and return to work, if his injury was not work-related. If his injury was work-related, he must provide a release and present himself to the employer. The claimant has not provided sufficient information that he has done either.

The claimant did not testify that his medical condition was work-related. The employer did not admit during the hearing that the claimant's condition was work-related. The claimant's doctor's impression is that the claimant's pinched nerve is from a recent lumbar spine injury. The impression does not indicate that the injury is work-related. The claimant is disqualified from receiving unemployment insurance benefits beginning November 11, 2018, due to his unavailability for work.

**DECISION:**

The representative's December 18, 2018, decision (reference 03) is reversed. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work with the employer.

Should circumstances change and the disqualification can be removed, notification should be made to the local workforce development center.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs