

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

RAMIRO G SOLORZANO
Claimant

APPEAL 15A-UI-06590-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/05/15
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 5, 2015, (reference 01), unemployment insurance decision that denied benefits. After due notice was issued, a telephone conference hearing was scheduled to be held on July 1, 2015. Claimant participated with the assistance of Spanish Interpreter Ike Rocha.

ISSUES:

Was the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant cut his finger at home on April 3, 2015. He sought medical treatment and was placed on light duty until June 6, 2015. The employer would not put him back to work until he was released to full duty. At the time of the hearing he was released to full duty and had returned to work.

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 § 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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as

defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 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.

The employer did not allow the claimant to return to work until he was released to return to full duty with no work restrictions. As his injury was not work related, the employer was under no obligation to accommodate work restriction from a non-work-related injury. Accordingly, benefits are denied.

DECISION:

The June 5, 2015 (reference 01) decision is affirmed. The claimant is not able to work and available for work effective April 5, 2015 through June 6, 2015. Benefits are denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css