

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN PLUMMER
Claimant

APPEAL NO: 13A-UI-14107-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**AADG INC
CURRIES-GRAHAM**
Employer

**OC: 09/22/13
Claimant: Appellant (4)**

Iowa Code § 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

Steven Plummer (claimant) appealed an unemployment insurance decision dated December 17, 2013, reference 06, which held that he was not eligible for unemployment insurance benefits from September 22, 2013 through November 23, 2013 due to medical reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 15, 2014. The claimant participated in the hearing. Human Resources Lanie Allen was available to participate but elected not to do so since she had nothing to add to the case. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable or unable to 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 separated from his employer on September 13, 2013 due to non-work-related medical reasons. He contends he was able and available to work as of that date. Dr. Lisa Kies provided the claimant with a medical note dated November 14, 2013 stating he was completely disabled. Dr. Kies provided a subsequent medical note which was listed as a "clarification." The subsequent note was dated November 21, 2013 and it released the claimant to work at "the most sedentary, selfpaced (sic) occupation."

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able and available for work. For an individual to be eligible to receive benefits, he must be able to work, available to work, and earnestly and actively seeking work. Iowa Code §96.4-3; 871 IAC 24.22(2).

A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. See 871 IAC 24.22(1)(a). An individual must be able to work in some reasonably suitable, comparable, gainful, full-time endeavor, other than self-employment, which is generally available in the labor market in which the individual resides. See 871 IAC 24.22(1)(b).

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 medical note dated November 14, 2013 indicates the claimant is completely disabled but the note dated November 21, 2013 releases him to return to work. However, the second medical note says nothing about the first medical note and the information contained within both of these medical excuses must be taken at face value. The claimant does not meet the availability requirements of the law for the two-week period ending November 23, 2013. However, there is no medical evidence to indicate the claimant is not medically able to work during the seven-week period ending November 9, 2013 and as of November 30, 2013.

DECISION:

The unemployment insurance decision dated December 17, 2013, reference 06, is modified in favor of the appellant. The claimant is not eligible for unemployment insurance benefits for the two-week period ending November 23, 2013. He qualifies for benefits before and after that time frame, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs