

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STEVE L GERMAN
Claimant

APPEAL 19A-UI-01747-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 02/03/19
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 27, 2019, (reference 04) unemployment insurance decision that denied benefits based upon claimant's ability to work. The parties were properly notified about the hearing. A telephone hearing was held on March 28, 2019. Claimant participated.

ISSUE:

Is the claimant able to work and available for work effective February 3, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has a history of back problems. In December 2018, claimant fell and hurt his back outside of work. Claimant has not worked since he was injured. Claimant's medical provider informed him that he would need to undergo surgery and recover before he could return to work. As of the date of the hearing, claimant has not been released to return 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 effective February 3, 2019.

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that the individual is able to work, is available for work, and is earnestly and actively seeking work. Iowa Code § 96.4(3).

Iowa Admin. Code r. 871-24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Because the treating physician has not released claimant to return to work with or without restriction, he has not established his ability to work effective February 3, 2019.

DECISION:

The February 27, 2019, (reference 04) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective February 3, 2019. Benefits are denied.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn