

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

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**LARRY J MAIERS**  
Claimant

**LUMBER SPECIALTIES US LBM LLC**  
Employer

**APPEAL 22A-UI-18652-DS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/21/22  
Claimant: Respondent (1)**

Iowa Code § 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

On November 4, 2022, the employer filed an appeal from the unemployment insurance decision dated November 2, 2022, (Reference 03) that allowed unemployment insurance benefits beginning August 21, 2022. Notice of hearing was mailed to the parties' last known addresses of record for a telephone hearing to be held at 10:00 a.m. on November 30, 2022. The claimant participated personally. The employer participated through Rachel Bacon, Human Resources. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Is the claimant able to work and available for work?

**FINDINGS OF FACT:**

The administrative law judge finds that:

The claimant worked for this employer from May 12, 2003, until July 25, 2022, when he was discharged from the employment. He was a Laborer. His last day of work was March 28, 2022. The claimant experienced a non-work-related injury and began leave under the Family and Medical Leave Act (FMLA) on March 29, 2022. The employer could no longer accommodate extended leave, so the employer discharged the claimant effective July 25, 2022. The claimant became available for work as of August 15, 2022, according to his doctor's orders. The claimant was determined in Appeal No. 22A-UI-17149-DB-T to be eligible for benefits.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is able and available for work. Benefits are allowed.

Iowa Code section 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 section 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23 provides in relevant part:

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

(34) Where the claimant is not able to work due to personal injury.

(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.

The claimant received clearance from his physician to work as of August 15, 2022. The Department determined that the claimant qualifies for benefits beginning August 21, 2022, the next full benefit week, on this basis. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The November 2, 2022, (Reference 03) unemployment insurance decision is AFFIRMED. The claimant is able to work and available for work. Benefits are allowed beginning August 21, 2022, provided the claimant is otherwise eligible.



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David J. Steen  
Administrative Law Judge  
Iowa Department of Inspections & Appeals  
Administrative Hearings Division - UI Appeals Bureau

December 2, 2022  
Decision Dated and Mailed

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**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. *There is no filing fee to file an appeal with the Employment Appeal Board.*

**AN APPEAL TO THE BOARD SHALL STATE CLEARLY:**

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may file a petition for judicial review in district court.

2. If you do not file an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *There may be a filing fee to file the petition in District Court.*

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://eab.iowa.gov)**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.