

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ERIC G GUETTER**

Claimant

**EXPRESS SERVICES INC**

Employer

**APPEAL NO: 13A-UI-10015-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/21/12**

**Claimant: Appellant (4)**

Section 96.5-3 – Able and Available  
871 IAC 24.23(1) – Unable to Work/Illness or Injury

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated August 27, 2013, reference 04, that held he was not eligible for benefits on July 21, 2013, as he had been granted a leave of absence that is a voluntary period of unemployment. A telephone hearing was held on October 10, 2013. The claimant participated. Mandy Kruse, Staffing Consultant, participated for the employer.

**ISSUES:**

Whether the claimant is able and available for work.

Whether claimant is on a leave of absence.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record finds: Claimant began his most recent employment at Dyersville Die Cast on June 3, 2013 and last worked as a full-time tool and die person on July 12. He was injured in a non-job-related car accident on July 13. He advised the employer about his accident/injury.

Claimant was given a medical release with a ten-pound lifting restriction for July 16. The employer contacted an assignment representative who advised he could not return to work given the lift restriction.

Claimant received an unrestricted medical release to return to work on October 4 and he contacted the employer on October 7 about it. The employer had previously contacted his previous assignment in late September, and learned there was no work available.

The employer had no work assignment to offer claimant on October 7 though it continues to look for work for him.

**REASONING AND CONCLUSIONS OF LAW:**

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 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 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 section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

871 IAC 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 administrative law judge concludes claimant did not meet the availability requirements of the effective July 21, 2013, because he had a restricted medical release for lifting no more than ten pounds that precluded him for return to work at his former tool and die assignment. There was no leave of absence requested or granted.

The reason claimant could not return to work on July 21 is that he did not have an "unrestricted" medical release that would allow him to work his tool and die assignment.

The administrative law judge concludes claimant became able and available for work effective October 7, 2013 when he received an unrestricted work release, offered to return to work for the employer, and no work was available.

**DECISION:**

The department decision dated August 27, 2013, reference 04, is modified. The claimant did not meet the availability requirements of the law to be eligible for benefits for the period from July 13, 2013 to October 7, 2013. Claimant became eligible for benefits effective October 7, 2013 when he received an unrestricted work release.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs