

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM G CHARTER
Claimant

APPEAL NO. 14A-UI-03025-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARSDEN BLDG MAINTENANCE LLC
Employer

OC: 03/12/14
Claimant: Appellant (3)

Section 96.4-3 – Able and Available
871 IAC 24.23(1) – Unable to Work/Illness

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated March 12, 2014, reference 01, that held he was discharged for misconduct on January 17, 2014 and benefits are denied. A hearing was held on April 29, 2014. The claimant's friend, Mary Magnusson, participated. The employer did not participate.

ISSUE:

The issue is whether claimant is able and available to work.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record finds that: The claimant suffered a stroke on April 9, 2014 and he was admitted to Broadlawns Hospital. He has been transferred to Genesis for rehabilitation to receive therapy. He is unable to speak at this time.

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 is not currently able and available for work and is disqualified from receiving benefits as of April 13, 2014. When he has been released from care, he should contact his local Workforce Center to request department fact finding in order to provide medical information he is able and available to perform work.

Claimant should also contact UI Appeals to request a hearing on his appeal from the department March 12, 2014 decision regarding his January 17, 2014 employment separation (when he is able to do it).

DECISION:

The decision of the representative dated March 12, 2014, reference 01, is modified. The claimant is not currently able and available to work due to illness. Benefits are denied effective April 13, 2014. No decision is made on the January 17, 2014 employment separation pending claimant's recovery.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css