

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SCOTT SCHOFFSTALL
Claimant

WEST LIBERTY FOODS LLC
Employer

APPEAL 21A-UI-24955-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/09/21
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Claimant filed an appeal from the October 27, 2021, (reference 02) unemployment insurance decision that denied benefits based on a finding that claimant was not able to perform work due to an injury. The parties were properly notified about the hearing. A telephone hearing was held on January 6, 2022. Claimant Scott Schoffstall participated. Joni Schoffstall observed on behalf of claimant. Employer West Liberty Foods, LLC did not participate. The administrative law judge took official notice of the administrative file.

ISSUES:

Is the claimant able to and available for work effective May 9, 2021?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on July 27, 2015. Claimant worked for employer as a full-time spice room attendant until June 22, 2021, when he quit.

In February 2021, claimant broke his ankle. It was a non-work-related injury. Employer required claimant to undergo physical therapy before returning to work because his job involves walking and going up and down stairs and lift 50-pound bags regularly. The physical therapist placed restrictions on claimant, including not lifting more than five pounds and not standing for more than an hour at a time. Claimant sought light duty work from employer, but it had no light duty work available.

Claimant's separation from employment was addressed in an August 5, 2021, decision.

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 May 9, 2021.

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".

Iowa Admin. Code r. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(1) and (35) provide:

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

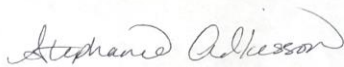
(1) An individual who is ill and presently not able to perform work due to illness.

(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.

An individual claiming benefits has the burden of proof that he is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. Inasmuch as claimant's medical condition was not work-related and he could not return to work without restrictions, claimant has not established his ability to work while still an employee of West Liberty Foods effective May 9, 2021. While claimant may have been able to perform light-duty work, employer was not obligated to accommodate a non-work-related injury. Because claimant had not been released to perform his full work duties, claimant was not able to or available for work. Accordingly, he is not eligible for unemployment insurance benefits.

DECISION:

The October 27, 2021, (reference 02) unemployment insurance decision is affirmed. The claimant is not available for work effective May 9, 2021, and regular, state-funded unemployment insurance benefits are denied.



Stephanie Adkisson
Administrative Law Judge
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February 2, 2022
Decision Dated and Mailed

sa/mh