

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RODREALL J WRIGHT
Claimant

APPEAL NO. 13A-UI-03342-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 02/10/13
Claimant: Appellant (2)

Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 14, 2013, reference 02, that concluded the claimant was not able to work. A telephone hearing was held on April 18, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative, Thomas Berg, attorney at law. No one participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant able to and available for work?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant had started working for the employer in 2011. He completed his last two-week assignment for the employer with Papers Systems on February 13, 2012. He asked for another assignment and was told the employer would continue to look for work for him.

The claimant filed for unemployment insurance benefits effective February 10, 2013, and filed for four weeks through the week ending March 9, 2013, when he found another job and stopped filing. During this time, the claimant was looking for work and had no medical restrictions.

The claimant had asked the employer to find him less strenuous work than the Papers Systems assignment because the job involved heavy physical labor. The claimant is contemplating hip surgery and the Papers Systems was aggravating this condition. He had performed other job assignments with the employer without any problems.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. The unemployment insurance rules provide that a person must be physically able to

work, not necessarily in the individual's customary occupation, but in some reasonably suitable, comparable, gainful, full-time endeavor that is generally available in the labor market. 871 IAC 24.22(1)b. The evidence establishes that the claimant was able to perform gainful work, just not work that requires heavy physical labor. There is work available in the labor market meeting such restrictions that the claimant is qualified to perform, and the claimant has been actively looking for such work in compliance with the requirements of the law.

DECISION:

The unemployment insurance decision dated March 14, 2013, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs