

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AARON J COON
Claimant

APPEAL NO. 12A-UI-08405-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 05/27/12
Claimant: Appellant (2)

Section 96.4-3 – Able and Available
871 IAC 24.1(113)a – Temporary Layoff

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated July 5, 2012, reference 01, that held he voluntarily quit without good cause on June 1, 2012, and which denied benefits. A hearing was held on August 7, 2012. The claimant participated. The employer did not participate.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the witness testimony and having considered the evidence in the record, finds that: The claimant began labor work for his temporary employment firm on assignment at Welden Tire beginning October 10, 2011. While returning to work from a lunch hour break, he was injured in a motorcycle accident and went to an area hospital. He suffered a fractured finger and he was placed on a doctor restriction not to lift more than 25 pounds.

He notified his employer and Welden Tire about the accident and injury. Welden Tire dismissed him from the work assignment. The employer was unable to place the claimant on a further assignment until the week of July 7. The department record shows claimant reported earnings for the weeks ending July 7 and July 14.

The employer failed to respond to the hearing notice.

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 eligible for benefits effective May 27, 2012, because he was able and available for work. Claimant was able to continue work on assignment at Welden in spite of his injury with a lifting restriction. The assignment dismissal is compared to a temporary layoff where the employer was unable to place claimant on another assignment until the week of July 7.

DECISION:

The representative's decision dated July 5, 2012, reference 01, is reversed. The claimant is able and available for work. The claimant was dismissed from the assignment and the period of unemployment is considered a temporary layoff.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw