

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**PATRICK D BLY**  
Claimant

**THE SCHEBLER CO**  
Employer

**APPEAL 18A-UI-11069-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/08/18**  
**Claimant: Appellant (1)**

---

Iowa Code § 96.4(3) – Able and Available  
Iowa Admin. Code r. 871-24.22(2)j – Benefit Eligibility Conditions – Leave of Absence  
Iowa Admin. Code r. 871-24.23(10) – Availability Disqualifications – Leave of Absence

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the October 31, 2018, (reference 01) unemployment insurance decision that denied benefits based upon claimant's availability for and ability to work. The parties were properly notified about the hearing. A telephone hearing was held on November 29, 2018. Claimant participated. Employer participated through human resource director Krista Long.

**ISSUES:**

Is the claimant able to work and available for work effective October 7, 2018?  
Is the claimant on an approved leave of absence?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant works for employer as a full-time journeyman metal sheet worker. Claimant's last day of physical work for employer was September 28, 2018. On approximately September 29, 2018, claimant injured his ankle outside of work. Claimant's medical provider restricted him to working while seated while his ankle heals. Employer did not have light duty work available for claimant. Claimant did not formally apply for medical leave, but both parties consider claimant to still be employed by employer.

Claimant was released to return to work with no restrictions on November 26, 2018, but claimant had not presented the release to employer as of the date of the hearing.

**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 October 7, 2018.

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. 871-24.23(35) provides:

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

(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.

Inasmuch as the medical condition was not work-related and the treating physician had not released the claimant to return to work without restriction until this week, claimant has not established his ability to work while still an employee of The Schebler Co effective October 7, 2018. While he may have been able to perform light work duties, the employer is not obligated to accommodate a non-work related medical condition, thus claimant is not considered able to and available for work during his injury recovery period.

**DECISION:**

The representative's decision dated October 31, 2018, (reference 01) is affirmed. The claimant is not able to work and available for work effective October 7, 2018. Benefits are withheld. If claimant presents his full medical release to employer and employer does not return claimant to work at the same hours and wages, claimant should contact Iowa Workforce Development and request the disqualification be removed.

---

Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

---

Decision Dated and Mailed

cal/scn