

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAY P SWETT
Claimant

APPEAL NO: 12A-UI-07207-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GREAT WESTERN DINING SERVICE INC
Employer

**OC: 05/15/11
Claimant: Appellant (4/R)**

Iowa Code § 96.4(3) – Ability to and Availability for Work

PROCEDURAL STATEMENT OF THE CASE:

On June 18, 2012, the claimant went to his local Workforce office and provided a doctor's statement indicating the claimant was released to work on June 14, 2012. The claimant provided a copy of his physician's release to work to his local Workforce office and the Appeals Section. Instead of reopening his claim and establishing a new benefit year for the claimant, a Workforce representative faxed the information as an appeal to the Appeals Section.

The Appeals Section set up an appeal from a May 9, 2012 determination (reference 03) that held the claimant ineligible to receive benefits as of April 8, 2012. The claimant participated in the hearing. Sheila Bruner, the employer's benefit coordinator, appeared at the hearing for the employer. Both parties agreed a decision could be issued based on information in the administrative record.

Based on the administrative record, the claimant is eligible to receive benefits as of June 17, 2012.

ISSUE:

Is the claimant able to and available for work when his physician released him to work?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of May 15, 2011. The claimant reopened his claim the week of April 8, 2012. As a result of medical issues, the claimant had not worked for the employer since early February 7, 2012. As of April 8, 2012, the claimant's physician had not released him to return work. A representative's May 9, 2012 determination (reference 03) held the claimant ineligible to receive benefits as of April 8 because he was unable to work.

The claimant did not appeal the May 9 determination because he had not been released to work in May. On June 14, the claimant's physician released him to work as a dishwasher for the employer. The claimant worked as a dishwasher for the employer. The claimant provided this information to his local workforce office on June 18, 2012.

The claimant agreed he was not able to and available for work until his doctor released him to work on June 14. The employer agreed that when the claimant was released to work in mid-June, the employer did not have any work for him until August 3, 2012.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4(3). Even though the claimant reopened his claim the week of April 8, he did not file any weekly claims after April 8.

Since the claimant does not dispute that he was not eligible to receive benefits April 8 through June 17, 2012, the timeliness issue is moot and does not need to be addressed.

When the claimant presented his doctor's June 14 work release to a representative at his local Workforce office, a representative should have helped the claimant establish a new benefit year. Since the claimant's benefit year ended on May 12, 2012, the claimant is directed to contact his local Workforce office and establish a new benefit year that should be made effective as of June 17, 2012.

The June 14, 2012 doctor's release establishes that as of June 17, 2012, the claimant is able to and available to work. Therefore, the claimant is eligible to receive benefits as of June 17, 2012, provided he meets all other eligibility requirements.

DECISION:

The representative's May 9, 2012 determination (reference 03) is modified in the claimant's favor. Based on his doctor's June 14 release to return to work, the claimant is eligible to receive benefits as of June 17, 2012. The claimant is directed to contact his local Workforce office to establish a benefit year as of June 17, 2012. The Department is directed to make the claimant's new benefit year effective as of June 17, 2012, because this should have been done on June 18 when the claimant was at his local Workforce office.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw