

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN MCCORD
Claimant

APPEAL NO: 12A-UI-10757-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

REMEDY INTELLIGENT STAFFING INC
Employer

OC: 06-17-12
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 29, 2012, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 1, 2012. The claimant participated in the hearing. Kayla Fagre, staffing consultant, participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired by the employer July 6, 2012, and is still employed at this time. He was assigned to work at Specialty Blending as a laborer. On August 29, 2012, he notified the employer he slipped on his deck and broke some of his ribs, had been to the emergency room, and had a doctor's excuse taking him off work. On August 2, 2012, he called the employer and stated his restrictions indicated he could only lift three pounds. On August 3, 2012, he called the employer again to say he misread his restrictions and could actually lift 30 pounds. On August 6, 2012, he called the employer for work with his restrictions but said he was still in considerable pain and did not know if he would be available for any work until September 8, 2012. On August 16, 2012, he provided the employer with a note stating he could return to work without restrictions effective August 20, 2012.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work for the three weeks ending August 18, 2012.

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".

The claimant was injured at home July 29, 2012, and, due to his pain level and restrictions, was not able or available for work until he received a full release to return to work effective August 20, 2012. Accordingly, benefits are denied for the three weeks ending August 18, 2012.

DECISION:

The August 29, 2012, reference 03, decision is affirmed. The claimant was not able to work and available for work for the three weeks ending August 18, 2012. Benefits are denied for that period of time.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw