

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JEFF R VRIEZELAAR**  
Claimant

**GATES CORPORATION**  
Employer

**APPEAL 24A-UI-03427-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/19/23  
Claimant: Appellant (4R)**

Iowa Code § 96.4(3) – Able to and Available for Work

**STATEMENT OF THE CASE:**

Jeff R. Vriezelaar, the claimant/appellant,<sup>1</sup> appealed the Iowa Workforce Development (IWD) March 20, 2024, (reference 02) unemployment insurance (UI) decision. IWD denied Mr. Vriezelaar REGULAR (state) UI benefits as of February 18, 2024 because IWD concluded he is not able to work at this time due to injury. On April 2, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Vriezelaar and the employer for a telephone hearing scheduled for April 22, 2024.

The administrative law judge held a telephone hearing on April 22, 2024. Mr. Vriezelaar participated personally. The employer did not participate in the hearing. The administrative law judge took official notice of the administrative record.

The administrative law judge concludes Mr. Vriezelaar is not eligible for UI benefits from February 18, 2024 through March 30, 2024 because he is not able to and available for work during this time. But he is eligible for UI benefits as of March 31, 2024 because he is able to and available for work as of this date.

**ISSUE:**

Is Mr. Vriezelaar able to and available for work as of February 18, 2024?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Vriezelaar began working for the employer in 2020. He worked as a full-time production worker. Mr. Vriezelaar applied for, and the employer approved him for intermittent Family Medical Leave Act (FMLA) leave in 2020 due to medical issues with his neck. Mr. Vriezelaar's medical issue was not work-related. Mr. Vriezelaar was on intermittent FMLA leave through February 2024.

On February 16, 2024, the employer asked Mr. Vriezelaar to complete a physical capacity test. Mr. Vriezelaar asked his medical provider to conduct the test. His medical provider directed him

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<sup>1</sup> Claimant is the person who applied for UI benefits. Appellant is the person or employer who appealed.

to a physical therapist for the test. Mr. Vriezelaar's medical provider also gave him a note advising him that he could work but with the restriction that he sits while working.

Mr. Vriezelaar visited a physical therapist who told him that they could conduct the test, but he would have to pay for the test since the test was not covered by his insurance. Mr. Vriezelaar could not afford to pay for the test, so he did not take the test.

On February 19, Mr. Vriezelaar gave the employer his medical note, which restricted him to sitting. Mr. Vriezelaar's job required him to stand. The employer told Mr. Vriezelaar that it could not accommodate his work restrictions and sent him home. Mr. Vriezelaar reopened his UI claim effective February 18, which is the Sunday of the week he reopened his claim.

During the first week of April, Mr. Vriezelaar's medical provider released him to return to work without restrictions. Mr. Vriezelaar decided to move on from the employer, so he did not tell the employer about his release. Instead, Mr. Vriezelaar resigned on April 3. IWD has not issued a decision on Mr. Vriezelaar's eligibility for UI benefits based on how his job ended with this employer.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes Mr. Vriezelaar is not able to and available for work from February 18, 2024 through March 30, 2024, but he is able to and available for work as of March 31, 2024.

Iowa Code § 96.4(3) provides, in relevant part:

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 96.1A, subsection 37, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, paragraph "c".

Iowa Admin. Code r. 871-24.22(1)a and (2)h provides:

Benefit eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

h. Available for part of week. Each case must be decided on its own merits. Generally, if the individual is available for the major portion of the workweek, the individual is considered to be available for work.

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.

A person claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work.<sup>2</sup> To be able to work, "[a]n individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood."<sup>3</sup> "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides."<sup>4</sup> "[O]nly those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits."<sup>5</sup>

In this case, Mr. Vriezelaar's medical issue is not work-related, and he was still under his medical provider's work restrictions from February 18, 2024 through March 30, 2024. While Mr. Vriezelaar may be able to do light duty work, the employer is not obligated to accommodate a non-work-related injury. Since Mr. Vriezelaar's medical provider had not yet released him to return to full-duty work, he is not able to and available for work from February 18, 2024 through March 30, 2024, and he is not eligible for UI benefits during this time.

Mr. Vriezelaar's medical provider released him to return to work without restrictions as of Wednesday, April 3. So, Mr. Vriezelaar could work a major portion of the week of March 31 – April 6 and thereafter. Mr. Vriezelaar has established that he is able to and available for work as of March 31, 2024. So, he is eligible for UI benefits as of March 31, 2024.

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<sup>2</sup> Iowa Admin. Code r. 871-24.22.

<sup>3</sup> *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1).

<sup>4</sup> *Sierra* at 723.

<sup>5</sup> *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004)

**DECISION:**

The March 20, 2024 (reference 02) UI decision is MODIFIED IN FAVOR OF THE APPELLANT, MR. VRIEZELAAR. Mr. Vriezelaar is not able to and available for work from February 18, 2024 through March 30, 2024. So, he is not eligible for UI benefits during these 6 weeks.

Mr. Vriezelaar is able to and available for work as of March 31, 2024 since his doctor released him to return to work without restrictions. Mr. Vriezelaar is eligible for UI benefits as of March 31, 2024, pending remand.

**REMAND:**

The issue of Mr. Vriezelaar's eligibility for UI benefits based on how his job ended with this employer is REMANDED (sent back) to the IWD Benefits Bureau for investigation, a decision, and/or any other necessary action.



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Daniel Zeno  
Administrative Law Judge

February 24th, 2024  
Decision Dated and Mailed

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**APPEAL RIGHTS.** If you disagree with this decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**AN APPEAL TO THE BOARD SHALL STATE CLEARLY:**

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.