

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVE R BROWN

Claimant

APPEAL NO: 13A-UI-13440-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ATTACHMENT TECHNOLOGIES INC

Employer

OC: 11/03/13

Claimant: Appellant (4/R)

Iowa Code § 96.4(3) – Availability for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's November 26, 2013 determination (reference 02) that held him ineligible to receive benefits as of November 3, 2013, because he was unable to work as the result of an injury or illness. The claimant participated at the December 31 hearing. The employer did not respond to the hearing notice or participate at the hearing. During the hearing, Claimant Exhibit A was offered and admitted as evidence. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is available and eligible to receive benefits as of December 29, 2013.

ISSUE:

When is the claimant available for work and eligible to receive benefits?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of November 3, 2013. The claimant has filed weekly claims since the week ending November 9, 2013.

A November 26, 2013 determination (reference 01) held the claimant qualified to receive benefits based on the reasons for his employment separation with the employer.

The claimant had back problems. His physician did not release the claimant to return to work until December 30, 2013. From December 30, 2013, through January 30, 2014, the claimant has work restrictions of lifting up to ten pounds, no bending, twisting or squatting. As of January 30, 2014, the claimant does not have any work restrictions. (Claimant Exhibit A.)

After establishing his claim for benefits, the claimant has been looking for work. With his work restrictions, the claimant has been looking for work as a truck driver, forklift operator, and assembly work. He has experience in these occupations. The claimant has limited computer skills. If the employer would rehire him, the claimant could complete necessary paperwork that he has done in the past.

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). The claimant's physician did not release him to work with restrictions until December 30, 2013. Even though the claimant may have been looking for work since November 3, he is not eligible to receive benefits until his doctor released him to work.

The law presumes a claimant is not eligible to receive benefits when his availability is unduly limited because the claimant is not willing to accept work in his usual occupation and fails to establish what other work he can perform. 871 IAC 24.23(19). Even though the claimant has work restrictions from December 30 through January 30, 2014, he established that he is able to and available for work in occupations in which he has experience and can perform with his current work restrictions. As of December 29, 2013, the claimant is eligible to receive benefits.

This matter will be remanded to the Claims Section to correct the lock that was placed on the claimant's claim. The computer records indicate his claim is locked because he was discharged for disqualifying reasons, which is NOT correct. The lock should have been for the availability issue, which has been modified by this decision.

DECISION:

The representative's November 26, 2013 determination (reference 02) is modified in the claimant's favor. The claimant is not eligible to receive benefits for the weeks ending November 9 through December 28, 2013, because his physician had not released him to work until December 30, 2013. As of December 29, 2013, the claimant is available for work after his physician released him to work. Even with the work restrictions he has for a month, the claimant established that he is looking for work in which he has experience and is capable of performing. The claimant is eligible to receive benefits as of December 29, provided he meets all other eligibility requirements.

This matter is **Remanded** to the Claims Section to unlock the claimant's claim for a disqualifying discharge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs