

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AARON J JENKINS
Claimant

APPEAL NO: 15A-UI-01126-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/04/15
Claimant: Appellant (4)

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

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's January 22, 2015 (reference 01) determination that held him ineligible to receive benefits as of January 4, 2015 because he was unable to work as the result of an injury. The claimant participated at the February 26 hearing. Based on the administrative record, the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits from January 4 through 17, 2015, but as of January 18,, 2015 the claimant is eligible to receive benefits.

ISSUE:

After the claimant was injured, when was he able to and available for work?

FINDINGS OF FACT:

The claimant worked as a plumber and usually had an apprentice working with him. On January 4, when the claimant was not at work, he fractured his tibia. As a result of this injury, the claimant's physician restricted him from working from January 9 through 19, 2014. As of January 19 the claimant's physician released him to work with a restriction that he could not lift more than 35 pounds and could not climb extension ladders.

After his physician released him to work, the claimant gave the release to his employer and asked to return to work. At that time the employer's work was slow. The claimant's employer put him on a temporary layoff. The claimant's employer called him back to work the week of February 8, 2015. The claimant still has his work restrictions, but has been working for the employer as a plumber since the week of February 8, 2015.

The claimant established a claim for benefits during the week of January 4, 2015. He has filed claims for the weeks ending January 10 through February 7, 2015. The claimant worked until January 9, 2015.

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 law presumes a claimant is not available for work when he is injured, under the care of a physician and has not been released to work. 871 IAC 24.23(35).

As of January 9 the claimant's physician restricted him from working and did not release him to work until January 19. The claimant is not eligible to receive benefits for the week ending January 17 because his physician restricted him from working. When the claimant was released to work, the employer did not have work for him to do and he was on a temporary layoff. Since the claimant has returned to work the week of February 8 with the same work restrictions he had as of January 19, the claimant established he was able to and available for work as of January 18, 2015.

DECISION:

The representative's January 22, 2015 (reference 01) determination is modified in the claimant's favor. The claimant worked the majority of the week ending January 10. The claimant is not eligible to receive benefits as of January 11 because his physician restricted him from working on January 9 and did not release him to work until January 19, 2014. As of January 18, 2015 the claimant is eligible to receive benefits because he was then able to and available for work.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/can