

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAUL E HOLZERLAND
Claimant

APPEAL NO. 17A-UI-03868-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES USA LLC
Employer

**OC: 11/06/16
Claimant: Appellant (4)**

Section §96.4-3 – Able and Available

STATEMENT OF THE CASE:

Paul Holzerland (claimant) appealed a representative's April 4, 2017, decision (reference 05) that concluded he was not eligible to receive unemployment insurance benefits because he was not willing to work during the times when work in his occupation is often performed with Kelly Services USA (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 3, 2017. The claimant participated personally. The employer participated by Sara Gienau, District Manager.

ISSUE:

The issue is whether the claimant is available for work as of March 12, 2017.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from January 17, 2017, to February 28, 2017. There was no work available for the claimant after February 28, 2017. On March 15, 2017, the claimant told the employer he was not available for any work because he would be taking a job with Graham Wood Doors. The claimant did not ask Graham Wood Doors when his work would start. The claimant started work with Graham Wood Doors on March 27, 2017. He worked through March 30, 2017. The claimant was hospitalized from March 30, 2017 to March 31, 2017. He was terminated from Graham Wood Doors on March 31, 2017. The claimant was released to return to work without restrictions on April 3, 2017.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able and available to work as of the week ending April 8, 2017.

Iowa admin. Code r. 871-24.23(19) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(19) Availability for work is unduly limited because the claimant is not willing to accept work in such claimant's usual occupation and has failed to establish what other types of work that can and will be performed at the wages most commonly paid in the claimant's locality.

When an employee refuses work for a period of time, he is not considered available for work. The claimant requested that he not be scheduled for work from March 15 until his date of hire with Graham Wood Doors, March 27, 2017, and the employer granted his request. He is considered to be unavailable for work from March 15 to 27, 2017, due to his request not to be scheduled.

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant was working for the Graham Wood Doors from March 27, 2017, to March 30, 2017. He is considered to be unavailable for work for that period of time because of his employment.

Iowa Admin. Code r. 871-24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

When an employee is ill and unable to perform work due to that illness, he is considered to be unavailable for work. The claimant was in the hospital or recovering from a medical condition from March 30, 2017, to April 2, 2017. He is considered to be unable to work for that period of time.

The claimant is not able and available for work from March 12, 2017 to April 1, 2017. He is able and available to work as of the week ending April 8, 2017. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's April 4, 2017, decision (reference 05) is modified in favor of the appellant. The claimant is able and available to work as of the week ending April 8, 2017. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/scn