

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EMIR ZUKANOVIC
Claimant

APPEAL NO. 12A-UI-10727-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MODERN BUILDERS INC
Employer

OC: 08/05/12
Claimant: Respondent (1)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The employer, Modern Builders, filed an appeal from a decision dated August 27, 2012, reference 01. The decision allowed benefits to the claimant, Emir Zukanovic. After due notice was issued a hearing was held by telephone conference call on October 3, 2012. The claimant participated on his own behalf. The employer participated by Vice President Rusty Stensland.

ISSUE:

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

FINDINGS OF FACT:

Emir Zukanovic began employment with Modern Builders on January 6, 2012, as a full-time laborer. He was on medical leave of absence from July 5 until August 6, 2012. His final doctor's visit was August 6, 2012, at which time he was released to return to work without restrictions. He notified Vice President Rusty Stensland and provided the document.

The employer sets the work schedule for each week on Friday of the prior week. Mr. Stensland had already scheduled the workers for the week of August 6 through 10, 2012, and did not return Mr. Zukanovic to work until August 13, 2012.

REASONING AND CONCLUSIONS OF LAW:

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 able and available for work beginning the week of August 5, 2012, but the employer had no scheduled work available to him at that time. He is eligible for benefits, as he had been released to return to work without restrictions.

DECISION:

The representative's decision of August 27, 2012, reference 01, is affirmed. Emir Zukanovic is eligible for benefits, as he is able and available for work.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw