

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HOWARD D ELRICK
Claimant

APPEAL NO: 13A-UI-02444-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WARNKE CONSTRUCTION COMPANY INC
Employer

OC: 01/06/13
Claimant: Appellant (4)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Howard Elrick (claimant) appealed a representative's February 27, 2013 decision (reference 03) that concluded he was not eligible to receive unemployment insurance benefits because he was unable to work with Warnke Construction Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 27, 2013. The claimant participated personally. The employer participated by Vickie Warnke, Office Manager. The claimant offered and Exhibit A was received into evidence.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on March 12, 2012, as a full-time laborer. The claimant had not been feeling well and was seeing a physician for a non-work-related medical condition. His last work day was July 31, 2012. On August 1, 2012, the claimant told the employer he was quitting due to his medical condition and his doctor's advice. The employer agreed to the claimant's absence from work. The claimant was restricted from any work through February 20, 2013. On February 20, 2013, the claimant was released to return to work with restrictions. The claimant has not been released to return to work without restrictions.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able to work for the benefit week ending February 23, 2013.

871 IAC 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 medical condition, he is considered to be unable to work. The claimant's physician released the claimant to work with restrictions on February 20, 2013. He is considered to be able for work for the benefit week ending February 23, 2013. The claimant is qualified to receive unemployment insurance benefits starting the benefit week ending February 23, 2013.

DECISION:

The representative's February 27, 2013 decision (reference 03) is modified in favor of the appellant. The claimant is qualified to receive unemployment insurance benefits starting the benefit week ending February 23, 2013.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/tll