

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**RUSSELL W ARMSTRONG**  
Claimant

**ENVIRONMENTAL CONSULTANTS INC**  
Employer

**APPEAL 15A-UI-14185-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/14/14**  
**Claimant: Appellant (1)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(1) – Able to Work – Illness, Injury, or Pregnancy  
Iowa Admin. Code r. 871-24.23(35) – Availability Disqualifications

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 15, 2015 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 19, 2016. The claimant participated personally with attorney, Richard R. Schmidt. The employer participated through attorney, Mary E. Funk. David Hyler, Vice President, testified for the employer and Julie Bishop observed. Employer's Exhibits A, B, and C were admitted into evidence without objection.

**ISSUE:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full time and last performed work for this employer on August 20, 2015; when the claimant reported to his supervisor, David Hyler, that he had visited a doctor who performed an MRI. The claimant told the employer that he had a back injury but did not inform the employer that it may be work related or fill out any incident report that he had been injured on the job. At the claimant's request, the employer submitted a list of physical requirements of the claimant's job to his treating physician, Dr. Pederson (Employer's Exhibit B). On August 25, 2015, the employer received medical documentation detailing restrictions for the claimant. The employer could not accommodate the restrictions outlined by Dr. Pederson (Employer's Exhibit C) and did not have light duty available to the claimant. The claimant was advised to update the employer when he was released without restrictions.

On January 12, 2016, the claimant text messaged Mr. Hyler to state he had been released without restrictions from Dr. Pederson's care. The claimant asserted that he is now seeing a second doctor who will be performing "nerve-deadening" shots in February and March on him. This information was shared in the text message to Mr. Hyler as well. The claimant's new doctor has not evaluated him for restrictions one way or another at this time. The claimant did not receive or request written documentation from Dr. Pederson supporting his release to work

without restrictions and did not offer written documentation to either the employer or for the hearing regarding his restrictions being lifted. At the time of the hearing, the claimant did not offer any written medical documentation to support his assertion that his back injury was a work-related injury.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

Iowa Code § 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".

Iowa Admin. Code r. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a physician and has not been released as being able to work.

An employer is responsible for the safety of its employees, and its request for a full medical release, and clearance to work by the treating physician before allowing the claimant to return to work is reasonable given the circumstances. Based on the evidence presented, the claimant

has not provided supporting, written documentation that Dr. Pederson, who issued the initial restrictions (Employer's Exhibit C) has released the claimant to work without restrictions. In addition, the claimant remains under care and is seeking additional treatment from another doctor; who has not evaluated the claimant's restrictions or ability to return to work.

The employer is not obligated to accommodate restrictions for a non-work-related medical condition. No credible, medical evidence was provided to support the claimant's assertion that his back injury was work-related. Inasmuch as the illness was non-work-related and the treating physician has not released the claimant to return to work, the claimant has not established the ability to work. Benefits are withheld until such time as the claimant obtains a full medical release to return to work.

**DECISION:**

The December 15, 2015 (reference 01) decision is affirmed. The claimant is not able to work and available for work effective November 15, 2015. Benefits are denied.

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Jennifer L. Coe  
Administrative Law Judge

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Decision Dated and Mailed

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