

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JOSEPH M KINSER
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CHARITON IA 50049-1252

SPECIAL PACKAGING INC
PALLETON OF IOWA
511 S WARREN AVE
OSCEOLA IA 50213

Appeal Number: 06A-UI-04755-DWT
OC: 04/02/06 R: 02
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Able to and Available for Work

STATEMENT OF THE CASE:

Joseph M. Kinser (claimant) appealed a representative's April 24, 2006 decision (reference 01) that concluded he was not eligible to receive benefits as of April 2, because his light-duty work restrictions made him unavailable to perform work for Palleton of Iowa (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 18, 2006. The claimant participated in the hearing. Don Fleming, the general manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

As of April 2, 2006, was the claimant able to and available for work for the employer?

FINDINGS OF FACT:

The claimant started working for the employer in May 2004. The claimant works full time building pallets. The claimant's job requires him to do heavy lifting. On March 11, 2006, the claimant broke his collarbone at his home.

On March 13, the claimant gave the employer a doctor's note indicating he was restricted from doing any work for three weeks. The employer agreed to put the claimant on a medical leave of absence for three weeks.

During the week of April 2, the claimant's physician released him to light-duty work. The claimant's work restrictions did not allow him to lift anything over his head or lift more than ten pounds. The employer did not have any work to accommodate these restrictions. The employer agreed to give the claimant another three weeks' of leave. The claimant filed a claim for benefits during the week of April 2, 2006. When the claimant was released to work without any restrictions, he returned to work on April 26, 2006.

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. When the claimant was released to return to light-duty work, he was looking for a tailor-made job. The employer could not accommodate these work restrictions, but agreed to extend the claimant's leave of absence for another three weeks. The claimant's work restrictions did not make him available to work at his job. Therefore, the claimant is not eligible to receive benefits for the weeks ending April 2 through 22, 2006.

DECISION:

The representative's April 24, 2006 decision (reference 01) is affirmed. When the claimant was released to light-duty work, his work restrictions required him to look for a tailor-made job. As a result of his work restrictions, the claimant was not available to work at his usual job. The claimant is not eligible to receive benefits for the weeks ending April 8 through 22, 2006.

dlw/kkf