

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RANDY F LAYTON
Claimant

TRADESMEN INTERNATIONAL LLC
Employer

APPEAL 21A-UI-14886-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

The claimant/appellant, Randy F. Layton, filed an appeal from the June 25, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 30, 2021. The hearing was held together with Appeal 21A-UI-14884-JC-T and Appeal 21A-UI-14886-JC-T. The claimant participated personally and was represented by Bruce H. Stoltze Jr., attorney at law. The employer, Tradesmen International LLC., participated through Cody Benge, general manager. The administrative law judge took official notice of the administrative records. Claimant Exhibit 1 was admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant able to and available for work effective November 29, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began employment September 10, 2012. He last worked December 4, 2020 as a master carpenter. Claimant’s last assignment was in Sioux Falls, South Dakota. On December 7, 2021, employer stated it contacted claimant about an assignment based in Colfax, Iowa. Claimant stated he contacted the client, as is customary, and was told there was no work available. Claimant did not notify employer of his conversation with the client. Claimant was in a serious car accident on December 12, 2020. Employer contacted claimant on December 18, 2020 and learned of the car accident. Claimant stated he was still able to perform work after the car accident.

On March 16, 2021, Employer text messaged claimant who replied he had a doctor’s appointment the next day, that he was still feeling dizzy and that he hoped to be back in April.

The issue of claimant’s eligibility beginning March 21, 2021 is addressed in Appeal 21A-UI-14884-JC-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was able to and available for work December 6, 2020 through March 13, 2021.

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 96.1A, subsection 38, paragraph "b", subparagraph (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. 871-24.23(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.

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.

For an individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that he is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

From November 29- December 5, 2020: Claimant was performing full-time work as his assignment ended. Claimant was working to a degree that he was removed from the labor market. Benefits are denied pursuant to Iowa Admin. Code r. 871-24.23(23).

From December 6, 2020 through March 13, 2021: Claimant was able to and available for work, but work was not available. Therefore, claimant is allowed benefits for this period, provided he meets all other requirements. The employer may be charged for benefits during this period.

From March 14-20, 2021: Based upon claimant's message to the employer that he was dizzy, visiting a doctor and hoped to return, the administrative law judge concludes the claimant was

unable to perform work due to illness/injury. See Iowa Admin. Code r. 871-24.23(1). Therefore, benefits are denied effective March 14, 2021.

DECISION:

The unemployment insurance decision dated June 29, 2021, (reference 02) is modified in favor of the claimant/appellant. The claimant was able and available for work December 6, 2020-March 13, 2021 only. Claimant is not eligible for benefits November 29, 2020 through December 5, 2020 and effective March 14, 2021.



Jennifer L. Beckman
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September 15, 2021
Decision Dated and Mailed

jlb/ol