

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PETER V PAYLOR
Claimant

APPEAL NO. 11A-UI-14782-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 09/18/11
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Peter Paylor (claimant) appealed a representative's October 17, 2011 decision (reference 02) that concluded he was not able and available for work. After hearing notices were mailed to the claimant's last-known address of record, a telephone hearing was scheduled for November 15, 2011. The claimant was represented by Ryan Beattie, attorney at law, and participated personally.

ISSUE:

The issue is whether the claimant was 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 July 6, 2010, as a full-time welder. The claimant suffered a work-related injury on November 10, 2010. He did not work for a while and later worked light duty for one week after his injury. His last day of work was December 15, 2010.

The claimant's physician indicated he could not work at all from December 15, 2010, until further notice. The claimant updated the employer at least once per month. He believed he was complying with the employer's demands. The claimant had surgery in April 2011. All updates were provided to the employer's insurance company by the physician's office. On April 21, 2011, the employer wrote a letter terminating the claimant for failure to give the employer updates of the claimant's condition. The claimant was released to return to work with restrictions on September 12, 2011.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able and available for work.

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 injured and unable to perform work due to that injury, he is considered to be unavailable for work. The claimant was released to return to work without restrictions by his physician. He is considered to be available for work because his physician stated he was able and available for work. The claimant is not disqualified from receiving unemployment insurance benefits as of September 12, 2011.

DECISION:

The representative's October 17, 2011 decision (reference 02) is reversed. The claimant is qualified to receive unemployment insurance benefits, because he is able and available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw