

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NORMAN WATERS
Claimant

APPEAL NO: 17A-UI-05722-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

VON MAUR INC
Employer

OC: 05/07/17
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Norman Waters (claimant) appealed a representative's May 30, 2017 decision (reference 04) that concluded he was not eligible to receive unemployment insurance benefits because he was unable to work with Von Maur (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 16, 2017. The claimant participated personally. The employer participated by Dawn Shaw, Human Resources Manager.

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 November 6, 2016, as a full-time e-commerce associate. He was injured in a stabbing on March 25, 2017, and his physician believed he could not return to until September 2017. The claimant requested a leave of absence through May 19, 2017, when his leave was exhausted. On April 28, 2017, the employer talked with the claimant about his return to work after the leave expired. The claimant's circumstances had not changed and he his projected return was still September 2017. The employer encouraged the claimant to reapply for work when he was released by his physician. The claimant did not return to work on May 20, 2017. He has not been released to return to work by his physician.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is not able to work.

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.

When an employee is ill and unable to perform work due to that illness, he is considered to be unavailable for work. The claimant has not been released to perform work for this employer without restrictions by his physician. He is considered to be unable to work as of May 7, 2017. The claimant is disqualified from receiving unemployment insurance benefits beginning May 7, 2017, due to inability to work.

DECISION:

The representative's May 30, 2017 decision (reference 04) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he is not able to work for the employer.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs