

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STANLEY H PARKER
Claimant

BLACKBIRD BEND CORPORATION
Employer

APPEAL 17A-UI-07402-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/18/17
Claimant: Appellant (4)

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. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 18, 2017, (reference 02) unemployment insurance decision that denied benefits based upon his ability to work. The parties were properly notified about the hearing. A telephone hearing was held on August 9, 2017. Claimant participated. Employer participated through human resource generalist, Samantha Goodbird. Claimant's Exhibit A was received.

ISSUE:

Is the claimant able to work and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was separated from employment on May 29, 2017. He was unable to work due to a torn ligament and arthritis in his knee. On July 24, 2017, claimant's medical provider released him to return to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective July 24, 2017.

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that the individual is able to work, is available for work, and is earnestly and actively seeking work. Iowa Code § 96.4(3).

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.

Inasmuch as the treating physician had released claimant to return to work without restriction effective July 24, 2017, claimant is able to and available for work.

DECISION:

The July 18, 2017, (reference 02) unemployment insurance decision is modified in favor of appellant. The claimant is able to work and available for work effective July 24, 2017. Benefits are allowed, provided he is otherwise eligible.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Decision Dated and Mailed

cal/scn