

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GORDON B RUFFNER
Claimant

APPEAL NO: 08A-UI-07294-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LETICA CORPORATION
Employer

OC: 06/22/08 R: 04
Claimant: Respondent (2/R)

Section 96.4-3 – Ability to and Availability for Work

STATEMENT OF THE CASE:

Letica Corporation (employer) appealed a representative's August 7, 2008 decision (reference 05) that concluded Gordon B. Ruffner (claimant) was eligible to receive benefits as of June 22, 2008, because the Department determined he was medically able to work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 26, 2008. The claimant participated in the hearing. Marianne Williams, the human resource 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 June 22, 2008, is the claimant able to and available for work?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of June 22, 2008. When the claimant worked for the employer he worked as a full-time packer/handler. This job required the claimant to carry a bucket that weighed no more than two pounds. The claimant has also worked as a laborer and a factory worker.

The claimant's physician released him to work on June 22, 2008 with work restrictions. The claimant's work restrictions include no standing and no heavy lifting. The claimant understands he is only capable of working at a sit-down job. The claimant's work restrictions have not changed since June 22, 2008.

Based on his work restrictions, the claimant is unable to work at his former job. The claimant does not know of any sit-down job the employer may have. The claimant has been looking for factory work and labor work. The claimant acknowledged he was unable to do most factory work or any work that did not allow him to work sitting down. The claimant does not know about any labor work that would allow him to sit. The claimant has filed weekly claims since June 22, 2008.

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 section 96.4-3. Although the claimant's doctor has released him to work with restrictions, the claimant did not demonstrate that he is looking for work that meets his work restrictions. While the claimant may be applying for work, his work search efforts must be meaningful so he becomes re-employed.

The claimant should work with his local Workforce office so a representative can help direct him to work he is currently capable of doing.

As of June 22, the claimant has not demonstrated he is able to work in which he has experience. Therefore, as of June 22, 2008, the claimant is not eligible to receive benefits. After the claimant receives this decision and starts looking for work in which he has experience and is capable of performing, he should reopen his claim. Since a claimant must establish he is able to and available for work **EACH** week that he files a claim, the Claims Section could at that time re-evaluate the claimant's situation.

Since the claimant has received benefits since June 22, 2008, an issue of overpayment is remanded to the Claims Section.

DECISION:

The representative's August 7, 2008 decision (reference 05) is reversed. Although the claimant's physician released him to work with work restrictions, the claimant did not demonstrate that he is able to and available for work as of June 22, 2008, because he has not applied for work he is capable of performing. As of June 22, 2008, the claimant is not eligible to receive benefits.

If subsequent to the date of this decision, the claimant looks for work he has experience in and is capable of performing with his work restrictions, he can reopen his claim and ask that the Claims Section re-evaluate his ability to work.

An issue of overpayment is remanded to the Claims Section.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs