

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KENNETH M HILL
Claimant

APPEAL NO. 11A-UI-08151-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

J PETTIECORD INC
Employer

OC: 01/09/11
Claimant: Appellant (4-R)

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Kenneth M. Hill filed a timely appeal from an unemployment insurance decision dated June 9, 2011, reference 03, that held him ineligible for unemployment insurance benefits from January 30, 2011, through March 12, 2011, upon a finding that he was unable to work during that time. After due notice was issued, a telephone hearing was held July 14, 2011, with Mr. Hill participating. CFO Janelle Patterson participated for the employer, J. Pettiecord, Inc. Jerry Hans was present but was not called to testify. Claimant Exhibit A was admitted into evidence. The administrative law judge takes official notice of Agency benefit payment records.

ISSUE:

Is the claimant medically able to work?

FINDINGS OF FACT:

Kenneth M. Hill's employment with J. Pettiecord, Inc. ended on January 7, 2011. He began working for a company called Correll in April or May.

Mr. Hill underwent surgery on or about January 31, 2011. He was released by his physician to return to work on March 8, 2011. Mr. Hill reported no wages until the week ending May 7, 2011.

REASONING AND CONCLUSIONS OF LAW:

The primary question for the administrative law judge is whether Mr. Hill was medically able to work for the period January 30, through March 12, 2011. An individual must be medically able to work for any week that the individual requests unemployment insurance benefits. See Iowa Code section 96.4-3. The evidence establishes that Mr. Hill was released to return to work on Tuesday, March 8, 2011. Since he was medically able to work for the majority of the work week, the administrative law judge concludes that benefits should be allowed for that week but that they should be denied from January 30, 2011, through March 5, 2011.

An individual may receive unemployment insurance benefits under some circumstances if the individual is working on a reduced workweek basis through no fault of his or her own. The

individual must report wages, however, during the weeks in which the wages are earned, not the weeks in which they were paid. Testimony in this record indicates that Mr. Hill may have returned to work in early to mid April but did not report earnings until the week ending May 7, 2011. This matter must be remanded to the Unemployment Insurance Services Division.

DECISION:

The unemployment insurance decision dated June 9, 2011, reference 03, is modified in the claimant's favor. Benefits are withheld from January 30, 2011, through March 5, 2011. He is entitled to receive unemployment insurance benefits thereafter, provided he is otherwise eligible. The question of the exact date that Mr. Hill returned to employment and began earning wages is remanded to the Unemployment Insurance Services Division.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw