

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**MARTA COREAS
160 LUCY AVE
SALT LAKE CITY UT 84101-3107**

**TYSON FRESH MEATS INC
c/o TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166-0283**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**IKE ROCHA
ROCHA INTERPRETERS LLC
3919 FRANKLIN AVE
DES MOINES IA 50310**

**Appeal Number: 06A-UI-03034-MT
OC: 01/29/06 R: 04
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the ***Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 2, 2006, reference 01, which held claimant not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on April 5, 2006. Claimant participated personally. Employer participated by Ron Udell, Human Resource Manager. Exhibits One and A were admitted into evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant was off work treating for an injury. Claimant was released to full duty employment on December 30, 2005. Claimant was offered full duty work February 2, 2006. Claimant refused the job and went on medical leave of absence for one year. Claimant then moved to Utah.

REASONING AND CONCLUSIONS OF LAW:

The issue in this matter is whether claimant is able and available for work.

Iowa Code Section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Inasmuch as the treating physician has released the claimant to return to work, and the claimant has refused work she is not able and available for work. Benefits are withheld until such time as the claimant offers herself for full-time work. Benefits shall be withheld effective January 29, 2006.

DECISION:

The decision of the representative dated March 2, 2006, reference 01, is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective January 29, 2006, provided claimant meets all other eligibility requirements.

mdm\tjc