

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL D HOWK
Claimant

APPEAL NO: 14A-UI-02588-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 02/03/13
Claimant: Appellant (4)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Michael Howk (claimant) appealed a representative's February 17, 2014, decision (reference 04) that concluded he was not eligible to receive unemployment insurance benefits because he was unable to work. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on March 31, 2014. The claimant did participate personally and by his wife, Leah Howk.

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 seeing a physician and unable to return to work until May 2013, due to medical issues.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able to work as of May 5, 2013.

871 IAC 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 a medical condition, he is considered to be unavailable for work. The claimant's physician indicated he could return to work in May 2013. He is considered to be unavailable for work through the benefit week ending April 27, 2013. The claimant is disqualified from receiving unemployment insurance benefits

through the benefit week ending April 27, 2013, due to his unavailability for work. He is able to receive unemployment insurance benefits from the benefit week ending May 4 through the benefit week ending August 31, 2013, because he was able to work.

DECISION:

The representative's February 17, 2014, decision (reference 04) is modified in favor of the appellant. The claimant is disqualified from receiving unemployment insurance benefits through the benefit week ending April 27, 2013, because he was not able to work. The claimant is qualified to receive unemployment insurance benefits from the benefit week ending May 4 through the benefit week ending August 31, 2013, because he was able to work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs