

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANE L ECKHOLM
Claimant

APPEAL NO. 10A-UI-14921-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 03/21/10
Claimant: Appellant (1)

Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated October 21, 2010, reference 03, that concluded he was not able to and available for work. A telephone hearing was held on December 6, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative, Bob Wilson. Tim Speir participated in the hearing on behalf of the employer with witnesses Linda Pochobradsky and Jeff Hubler. Exhibits One through Four were admitted into evidence at the hearing.

ISSUE:

Was the claimant able to and available for work?

FINDINGS OF FACT:

The claimant worked full-time for the employer from May 29, 2008, to May 5, 2010. He had been working as a night stocker. The claimant was off work due to an injury to his back after May 5, 2010. He was excused from working by his doctor through August 25, 2010, and granted a leave of absence from the employer. On August 23, 2010, the claimant saw his doctor regarding his injury. His doctor excused him from working from August 23 to December 31, 2010, because of his injury.

The claimant has been unable to work since May 5, 2010. He has not been released to return to work by a doctor.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. The evidence establishes the claimant was and is unable to work.

If the claimant demonstrates that circumstances have changed and the disqualification should be lifted, he must present competent medical evidence that he is able to work.

DECISION:

The unemployment insurance decision dated October 21, 2010, reference 03, is affirmed. The claimant is disqualified to receive unemployment insurance benefits. If the claimant demonstrates that circumstances have changed and the disqualification should be lifted, he must present competent medical evidence that he is able to work.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw