

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSEPH A JONG**  
Claimant

**APPEAL NO. 17A-UI-01741-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SMITHFIELD FARMLAND CORPORATION**  
Employer

**OC: 01/08/17**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available  
871 IAC 24.23(10) – Voluntary Leave of Absence

**STATEMENT OF THE CASE:**

Joseph Jong (claimant) appealed a representative's February 9, 2017, decision (reference 02) that denied unemployment insurance benefits due to his unwillingness to work his normal hours at Smithfield Farmland Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 9, 2017. The claimant was represented by Christopher Spaulding, Attorney at Law, and participated personally through Interpreter, Diar Diar. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. Exhibit D-1 was received into evidence. The claimant offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the claimant is 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 performed services for the employer from June 10, 2014, to November 30, 2016. He suffered a work-related injury. On September 30, 2016, the claimant signed a permanent restriction document indicating he would be allowed to look for a bid job for sixty days from September 30, 2016. During that sixty days the company would "make work" for the claimant. At the end of sixty days the employer would stop making work for the claimant and he would be placed on medical leave, if eligible. If the claimant does not find work that meets his restrictions by the end of his leave, he will be terminated. The claimant does not believe he is capable of performing any work due to the permanent restrictions. As of February 7, 2017, the employer considered the claimant to be on medical leave of absence. The claimant has not found work. The claimant filed for unemployment insurance benefits with an effective date of January 8, 2017.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits.

Iowa Admin. Code r. 871-24.23(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 to that illness, he is considered to be unavailable for work. The claimant says he is not capable of performing any work for the employer. He is considered to be unavailable for work. The claimant is disqualified from receiving unemployment insurance benefits beginning January 8, 2017, due to his unavailability for work.

**DECISION:**

The representative's February 9, 2017 decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he is not able and available for work with the employer as of January 8, 2017.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs