

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAY L SAWVEL
Claimant

APPEAL NO: 15A-UI-08787-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 09/07/14
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Jay Sawvel (claimant) appealed a representative's June 12, 2015, decision (reference 04) that concluded he was not eligible to receive unemployment insurance benefits. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on August 26, 2015. The claimant did participate. Exhibit D-1 was received into evidence.

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 worked for the employer, Ertle, from August 2011, to June 1, 2014. At his fact-finding interview on June 11, 2015, the claimant told the fact-finder he was able and available for work 15 to 20 miles from his home and that his son drove him to work. He was able and available for work more than 20 miles from home but did not indicate that at the interview. The claimant also told the fact-finder that he suffered a work-related injury, was working for the employer, and did not know what type of work he was capable of performing. The claimant had notes from his physician indicating he could return to work with restrictions. The employer provided work for him that met those restrictions. On July 1, 2015, the claimant obtained a new job at Hormel Foods as an operator. The job is approximately 10 miles from his home.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able and available for work.

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 was released to return to work with restrictions by his physician. He is considered to be available for work because his physician stated he was able and available for work. The claimant was willing to perform the work provided. The claimant is not disqualified from receiving unemployment insurance benefits.

DECISION:

The representative's June 12, 2015, decision (reference 04) is reversed. The claimant is able and available for work as of May 31, 2015.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs