

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DANIEL GOELLNITZ**  
Claimant

**TYSON FRESH MEATS INC**  
Employer

**APPEAL 22A-UI-06043-ED-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 4/26/20**  
**Claimant: Appellant (2R)**

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Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for work

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the February 10, 2021 (reference 03) unemployment insurance decision that denied benefits. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for April 19, 2022. The claimant participated personally. The employer, Tyson Fresh Meats Inc, did not participate. The Claimant's Exhibit A was admitted into the record.

**ISSUE:**

Whether the appeal should be dismissed based on the appellant's failure to appear and participate.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant was hired April 2021 as a full-time maintenance employee. The claimant tested positive for Covid-19 on April 16, 2020 and was away from work. The claimant's doctor released the claimant to return to work after two weeks; however, the employer did not allow the claimant to return because he reported having a cough. The claimant was well enough to return to work after the doctor released him back to work after his period of quarantine. The claimant has since separated from his employment.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is able to and available for work effective April 26, 2020.

Iowa Code § 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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) *Able to work.* An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

*a. Illness, injury or pregnancy.* Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

To be able to work, "[a]n individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood." *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1). "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides." *Sierra* at 723. The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that "[i]nsofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

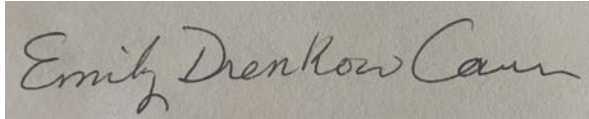
Claimant was unable to work due to his COVID-19 diagnosis. After his doctor released him back to work after a two week quarantine period, the claimant was able to perform his work duties, however, the employer did not allow him to return to work because he reported having a cough. Since claimant is able to perform his work duties after his two week quarantine period, he has established his ability to and availability for work. Benefits are allowed

## **DECISION:**

The February 10, 2021 (reference 03) unemployment insurance decision is reversed. The claimant is able to work effective April 26, 2020. Benefits are allowed.

**REMAND:**

The separation issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

A handwritten signature in cursive script, reading "Emily Drenkow Carr", written in dark ink on a light-colored, textured background.

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Emily Drenkow Carr  
Administrative Law Judge

April 22, 2022  
Decision Dated and Mailed

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