

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
BRIAN M PUFF Claimant WAL-MART STORES INC Employer	APPEAL NO: 16A-UI-12229-S1-T ADMINISTRATIVE LAW JUDGE DECISION OC: 10/23/16 Claimant: Appellant (4)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Brian Puff (claimant) appealed a representative's November 7, 2016, decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits as of October 23, 2016, because he was unable to work at Wal-Mart Stores (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 30, 2016. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The claimant offered and Exhibit A was received into evidence. 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 from June 2, 2015, to October 20, 2016. During his employment the claimant suffered from gout. He was having problems standing and walking and could not work after October 20, 2016. His physician released him to return to work without restrictions on November 10, 2016.

REASONING AND CONCLUSIONS OF LAW:

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 not released to return to work until November 10, 2016. He is considered to be unavailable for work from October 23, 2016, to November 12, 2016. The claimant is disqualified from receiving unemployment insurance benefits from October 23, 2016, through November 12, 2016, due to his unavailability for work. Benefits are allowed as of November 13, 2016, provided the claimant is otherwise eligible.

DECISION:

The representative's November 7, 2016, decision (reference 02) is modified in favor of the claimant. The claimant is disqualified from receiving unemployment insurance benefits from October 23, 2016, through November 12, 2016, due to his unavailability for work. Benefits are allowed as of November 13, 2016, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs