

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-02256-S2T
OC: 02/01/04 R: 03
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Damien Collins (claimant) appealed a representative's February 26, 2004 decision (reference 03) that concluded he was not able to work in his usual occupation as of February 1, 2004. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on March 24, 2004. The claimant did participate.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was restricted from work by his physician from July 28

through September 15, 2003. He was released to work with restrictions on September 15, 2003.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant was able and available for work. For the following reasons the administrative law judge concludes he is.

871 IAC 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 able to work from July 28 through September 15, 2003. He is considered to be unavailable for work from July 28 through September 15, 2003. The claimant is qualified to receive unemployment insurance benefits on February 1, 2004.

DECISION:

The representative's February 26, 2004 decision (reference 03) is reversed. The claimant is qualified to receive unemployment insurance benefits on February 1, 2004.

bas/s