

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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J C FLEMING INC
PO BOX 294
COUNCIL BLUFFS IA 51501

Appeal Number: 06A-UI-05335-SWT
OC: 04/09/06 R: 02
Claimant: Appellant (1)

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 to and Available for Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 15, 2006, reference 02, that concluded he was not able to and available for work. A telephone hearing was held on June 7, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked full-time for the employer as a truck driver from June 25, 2005, to March 23, 2006. On March 23, 2006, the claimant was diagnosed with a serious medical problem that prevented him from working. As of the date of the hearing, the claimant was still seriously ill and unable to work. His employer has not discharged him and he has not voluntarily quit his employment.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code section 96.4-3. The claimant admitted in his testimony that he is not able to work due to his medical problems. He testified that he insisted that his doctor release him to return to work against the doctor's wishes. Such a release is not a valid work release since the doctor is not expressing his or her true medical judgment about the claimant's condition.

The claimant is disqualified from receiving unemployment insurance benefits until there is a change in circumstances and the claimant reapplies for benefits and establishes that he is able to work.

DECISION:

The unemployment insurance decision dated May 15, 2006, reference 02, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until there is a change in circumstances and the claimant reapplies for benefits and establishes that he is able to work.

saw/cs