

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELFID DUBINOVIC

Claimant

APPEAL NO: 14A-UI-07702-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

OC: 06/22/14

Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Elfid Dubinovic (claimant) appealed a representative's July 23, 2014 (reference 01) decision that concluded he was not eligible to receive unemployment insurance benefits because he was unable to work with Wal-Mart (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 19, 2014. The claimant was represented by Christopher Cappola, Attorney at Law, and participated personally through Azra Sikiric, Interpreter. The claimant's son, Sejad Dubinovic, observed the hearing. 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.

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 May 10, 2001 to June 26, 2014. On January 4, 2013 the claimant suffered a work-related injury to his back. He worked with restrictions from January 4 through June 26, 2014. On June 26, 2014 the employer ended his employment. The employer told the claimant it had no position for him. The claimant's restrictions had not changed and the jobs the claimant was doing for the employer were not eliminated.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits.

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 able and available for work because his physician stated he was able and available for work. The claimant is not disqualified from receiving unemployment insurance benefits.

DECISION:

The representative's July 23, 2014 (reference 01) decision is reversed. The claimant is not disqualified from receiving unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/can