

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAID NEHAS

Claimant

APPEAL NO. 10A-UI-04217-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

OC: 05/31/09

Claimant: Appellant (1)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Said Nehas filed an appeal from a representative's decision dated March 12, 2010, reference 03, which denied benefits on a finding that he was not able to work. After due notice was issued, a hearing was held by telephone on May 17, 2010. Mr. Nehas participated personally. The employer participated by Jeff Jones, Assistant Manager.

ISSUE:

At issue in this matter is whether Mr. Nehas satisfies the availability requirements of the law.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Nehas has been employed by Wal-Mart since October of 2006. He worked 20 to 25 hours each week as a door greeter. His last day of work was February 7, 2010. At that time, he requested a leave of absence because he had broken his left hand away from work. Because the injury was not work related, the employer did not make light-duty work available to him. It is anticipated that it will take from five to six months for the hand to heal. Mr. Nehas filed an additional claim for job insurance benefits effective February 7, 2010.

REASONING AND CONCLUSIONS OF LAW:

When Mr. Nehas filed his additional claim for job insurance benefits, he was away from his job with Wal-Mart because of a requested leave of absence. An individual who is on a leave of absence is considered voluntarily unemployed and, therefore, not available for work as required by Iowa Code section 96.4(3). See 871 IAC 24.22(2)j. For this reason, Mr. Nehas is not entitled to job insurance benefits.

DECISION:

The representative's decision dated March 12, 2010, reference 03, is hereby affirmed. Mr. Nehas is disqualified from receiving benefits as he is not available for work within the

meaning of the law. Benefits are denied until such time as he is available for work, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css