

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**TROY SALLIS**  
Claimant

**TYSON FRESH MEATS INC**  
Employer

**APPEAL 22A-UI-00730-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/24/21  
Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

On December 10, 2021, Troy Sallis (claimant/appellant) filed an appeal from the December 7, 2021 (reference 05) unemployment insurance decision that denied benefits as of October 24, 2021 based on a finding claimant was unable to perform work due to injury.

A telephone hearing was held on January 28, 2022. The parties were properly notified of the hearing. The claimant participated personally. Tyson Fresh Meats Inc (employer/respondent) did not participate.

**ISSUES:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer about a year ago. Claimant worked for employer as a full-time production worker. The last day claimant worked on the job was on or about October 24, 2021. Claimant was discharged at that time.

Claimant filed a claim for benefits each week from the benefit week ending October 30, 2021 and continuing through the benefit week ending January 8, 2022. He began employment elsewhere at that time. Claimant was able to work, available for work, and searching for work during each week filed. He had recently recovered from an arm strain but that did not prevent him from performing work.

The administrative law judge notes a decision finding claimant's separation from employment was not disqualifying was issued on December 5, 2021 and has not been appealed further.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the December 7, 2021 (reference 05) unemployment insurance decision that denied benefits as of October 24, 2021 based on a finding claimant was unable to perform work due to injury is REVERSED. Claimant is eligible for benefits in the weeks filed.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Claimant filed a claim for benefits each week from the benefit week ending October 30, 2021 and continuing through the benefit week ending January 8, 2022. He began employment elsewhere at that time. Claimant was able to work, available for work, and searching for work during each week filed. He had recently recovered from an arm strain but that did not prevent him from performing work.

**DECISION:**

The December 7, 2021 (reference 05) unemployment insurance decision that denied benefits as of October 24, 2021 based on a finding claimant was unable to perform work due to injury is REVERSED. Claimant is eligible for benefits in the weeks filed.



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Andrew B. Duffelmeyer  
Administrative Law Judge  
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February 16, 2022  
Decision Dated and Mailed

abd/abd