

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TRISTAN J FRYE**  
Claimant

**APPEAL NO. 11A-UI-05733-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NORRIS ASPHALT PAVING COMPANY**  
Employer

**OC: 01/30/11  
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Tristan Frye (claimant) appealed a representative's April 20, 2011 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he was unable to work with Norris Asphalt Paving Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 24, 2011. The claimant participated personally. The employer participated by Justine Latimer, human resources director.

**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 having considered all of the evidence in the record, finds that: The claimant worked for the employer from April 26, 2007, to November 15, 2010, as a seasonal laborer. In mid-March 2011, the employer went to the claimant's house because it could not reach the claimant by telephone. The employer told the claimant that he had to notify the employer by the March 28, 2011, deadline about whether the claimant was returning to work. The claimant never contacted the employer. The claimant decided not to return to work because he wanted to stay near home and care for his newborn child and was planning to have surgery in June 2011.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is not able and available for work.

871 IAC 24.23(8) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care

When an employee is spending working hours caring for children, he is considered to be unavailable for work. The claimant is devoting his time and efforts to caring for his child. He is considered to be unavailable for work after March 15, 2011. The claimant is disqualified from receiving unemployment insurance benefits beginning March 15, 2011, due to his unavailability for work.

**DECISION:**

The representative's April 20, 2011 decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits, because he is not available for work with the employer.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/kjw