

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JODBIN R GALICIA**  
Claimant

**TYSON FRESH MEATS INC**  
Employer

**APPEAL 15A-UI-01102-LT**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/28/14**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 14, 2015, (reference 02) unemployment insurance decision that denied benefits based upon not being able to or available for work. The parties were properly notified about the hearing. A telephone hearing was held on February 19, 2015. Claimant participated. Employer responded to the hearing notice instructions but was not available at the number provided when the hearing was called and did not participate.

**ISSUE:**

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 was employed full-time as a production worker and was separated from employment on December 31, 2014, when he was discharged. He last day of work was December 26, 2014. He injured his hand at work on October 30, 2014. At least one supervisor started harassing him after reporting the injury and the employer did not send him for medical attention until November 16, 2014. The doctor diagnosed him with tendonitis and restricted him from “too much movement.” On December 26, the supervisor accused him of appearing jittery and ordered a drug screen. He declined because he believed the request to be unwarranted. He was ill from Saturday, December 27 through Tuesday, December 30, 2014. He went to the hospital on December 29. He was discharged when he returned to work on December 31. He found other work in early February 2015.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for no disqualifying reason.

Iowa Code § 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".

Since claimant has found work with his medical restrictions, he is clearly able to and available for work. Benefits are allowed.

**DECISION:**

The January 14, 2015, (reference 02) unemployment insurance decision is reversed. Claimant is able to and available for work effective December 28, 2014. Benefits are allowed, provided he is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs