

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD JONES
Claimant

APPEAL NO. 12A-UI-05530-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS
Employer

OC: 03/25/12
Claimant: Appellant (1)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, Donald Jones, filed an appeal from a decision dated May 9, 2012, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on June 4, 2012. The claimant participated on his own behalf. The employer, Tyson, participated by Employment Manager Chris Rossiter.

ISSUE:

The issue is whether the claimant able and available for work.

FINDINGS OF FACT:

Donald Jones resigned from Tyson effective January 23, 2012, as part of a negotiated settlement of a worker's compensation claim. Although the claimant has no medical documentation one way or the other, he claims to be totally unable to work due to his health at the current time.

REASONING AND CONCLUSIONS OF LAW:

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".

871 IAC 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.

The claimant has indicated he is not able to do any work at all at the present time due to illness. This means he is not available in the labor market generally. Under the provisions of the above Administrative Code section, he is ineligible to receive unemployment benefits.

DECISION:

The representative's decision of May 9, 2012, reference 02, is affirmed. Donald Jones is ineligible for unemployment benefits as he is not able and available for work.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css