

September 7, 2005. The claimant was injured while working on September 7, 2005. He was placed on light duty by his physician from September 7 until October 31, 2005. The employer had no light duty work available. On November 1, 2005, the claimant had surgery for his work-related injury. He is restricted from working from November 1 through 7, 2005. On November 7, 2005, the claimant will be able to return to light duty work.

REASONING AND CONCLUSIONS OF LAW:

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

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.

When an employee is injured and unable to perform work due to that injury he is considered to be unavailable for work. The claimant had surgery on November 1, 2005, and is restricted from working November 1 to 7, 2005. He is considered to be unavailable for work from November 1 to 7, 2005. The claimant is disqualified from receiving unemployment insurance benefits from November 1 to 7, 2005, due to his unavailability for work. Prior to November 1 and after November 7, 2005, the claimant is restricted to light duty work.

DECISION:

The representative's October 13, 2005 decision (reference 01) is modified in favor of the appellant. The claimant is not disqualified from receiving unemployment insurance benefits. He was able and available to work for this employer from September 7 to November 1, 2005.

bas/kjw