

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARRY A HUTCHINSON
Claimant

APPEAL NO. 10A-UI-00062-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING INC
SEDONA STAFFING**
Employer

**OC: 02/01/09
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated December 24, 2009, reference 01, which held claimant not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on February 15, 2010. Claimant participated personally. Employer participated by Colleen McGuinty, Unemployment Benefits Administrator and Margo Bojorquez, Branch Manager. Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant went off work due to an upper respiratory infection. Claimant talked it over with the assigned supervisor and it was decided it was best to end the assignment. Claimant was sick until about Christmas. Claimant was able and available for full-time assignment December 27, 2009.

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".

Inasmuch as the illness was not work-related and the treating physician has released the claimant to return to work, the claimant has established the ability to work. Benefits shall be allowed effective December 27, 2009.

DECISION:

The decision of the representative dated December 24 2009, reference 01 is reversed. Claimant is eligible to receive unemployment insurance benefits, effective December 27, 2009, provided claimant meets all other eligibility requirements.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css