

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

KURTIS R STEVENS
Claimant

APPEAL NO: 18A-UI-06973-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

JOHNSON BROTHERS OF IOWA IC
Employer

OC: 04/01/18
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Kurtis Stevens (claimant) appealed a representative's June 22, 2018 decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits because he was unable to work with Johnson Brothers of Iowa (employer) from April 1 through April 28, 2018. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 16, 2018. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

ISSUE:

The issue is whether the claimant is able and available for work with the employer from April 1 through April 28, 2018.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from July 18, 2016, to December 22, 2017. He had a medical issue and was in the hospital off and on. After his last hospital stay, his physician restricted him from working for the employer for a period of time. The physician released him to return to work without restrictions with the employer on April 30, 2018.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is not able to work for the employer for the four week period ending April 28, 2018.

Iowa Admin. Code r. 871-24.23(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 the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When an employee is ill and unable to perform work due to that illness, he is considered to be unavailable for work. The claimant was in the hospital and later restricted from working. He is considered to be unavailable for work through April 30, 2018. The claimant is disqualified from receiving unemployment insurance benefits from April 1 to April 28, 2018, because he was not able to work.

DECISION:

The representative's June 22, 2018, decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he was not able to work with the employer from April 1 through April 28, 2018.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs