

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**TODD W ROCKWELL
724 25TH ST
MOLINE IL 61265**

**HON INDUSTRIES
OAK LAMINATE LOCATION 14
600 E 2ND ST
MUSCATINE IA 52761**

**Appeal Number: 04A-UI-04436-AT
OC: 03-21-04 R: 12
Claimant: Appellant (1R)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Eligibility for Benefits
Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Todd W. Rockwell filed a timely appeal from an unemployment insurance decision dated April 13, 2004 reference 01 which denied benefits to him upon a finding that he was medically unable to perform work. Due notice was issued for a telephone hearing to be held May 6, 2004. Mr. Rockwell provided a telephone number at which he could be contacted. When the administrative law judge first called the number, it was answered by a busy signal. A second call a few minutes later went unanswered. Under these circumstances, it was unnecessary to take testimony from the employer's witness, Peggy Starkweather.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: Todd W. Rockwell's chiropractor has released him to return to work with restrictions. Mr. Rockwell has not provided evidence to establish the existence of jobs in his labor market area consistent with his medical restrictions and for which he has the requisite job skills or training. He has submitted a letter of resignation to his employer, indicating that he has taken other employment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that Mr. Rockwell is eligible for unemployment insurance benefits. It does not.

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".

An individual need not establish that he or she is able to perform his or her normal or most recent job. It is sufficient for the individual to establish the existence of at least one job in the individual's labor market area that the individual is medically capable of performing and has the training, education or experience to perform. There is no evidence in this record to establish what Mr. Rockwell can do. There is, however, an indication in the record that Mr. Rockwell has left employment with Hon Industries for the stated reason of accepting other employment. If Mr. Rockwell continues filing weekly claims for unemployment insurance benefits, his separation must be investigated by the Unemployment Insurance Services Division for a determination of the unemployment insurance consequences of that separation.

DECISION:

The unemployment insurance decision dated April 13, 2004 reference 01 is affirmed. The claimant is ineligible for unemployment insurance benefits at this time. The matter of Mr. Rockwell's separation from employment with Hon Industries is referred to the Unemployment Insurance Services Division for investigation and determination at the appropriate time.

sb/kjf