

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**IRMA TREVINO**  
Claimant

**APPEAL NO. 14A-UI-04081-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 03/16/14**  
**Claimant: Appellant (2)**

Section 96.4-3 – Able and Available  
871 IAC 24.23(10) – Voluntary Leave of Absence

**STATEMENT OF THE CASE:**

Irma Trevino (claimant) appealed a representative's April 14, 2014, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits as of March 16, 2014, because she was unable to work for Tyson Fresh Meats (employer) due to injury. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 6, 2014. The claimant was represented by Adnan Mahmutagic, Attorney at Law, and participated personally. The employer participated by Shannon Wehr, Human Resources Clerk.

**ISSUE:**

The issue is whether the claimant is available for work.

**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 February 25, 2008, to March 10, 2014. During her employment the claimant suffered a heel injury she believes is work related. The claimant's physician told her she could work but she had to wear a boot. The employer would not allow her to work with the boot and placed her on a medical leave of absence as of March 10, 2014. The claimant did not request or sign the leave of absence.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is able and available for work.

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.

When an employee is ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant was released to return to work with/out restrictions by her physician. She is considered to be available for work because her physician stated she was able and available for work. The claimant is not disqualified from receiving unemployment insurance benefits.

**DECISION:**

The representative's April 14, 2014, decision (reference 01) is reversed. The claimant is qualified to receive unemployment insurance benefits as of March 16, 2014.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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