

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDY L STITES

Claimant

APPEAL NO. 09A-UI-02774-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY

Employer

Original Claim: 01/04/09

Claimant: Appellant (2)

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Randy L. Stites filed a timely appeal from an unemployment insurance decision dated February 13, 2009, reference 01, that imposed an open-ended denial of unemployment insurance benefits effective January 4, 2009 upon a finding that the claimant was medically unable to work. After due notice was issued, a telephone hearing was held March 12, 2009 with Mr. Stites participating. Exhibit A was admitted into evidence on his behalf. The employer, Swift & Company, did not provide the name and telephone number of any witnesses.

ISSUE:

Is the claimant eligible to receive unemployment insurance benefits?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Randy L. Stites was released to return to work on Thursday, January 8, 2009 with restrictions. Mr. Stites is an industrial mechanic. He would have been able to perform his normal occupation with these restrictions.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant is eligible to receive unemployment insurance benefits. This, in turn, depends on whether the evidence establishes that Mr. Stites was medically able to work. The administrative law judge concludes that Mr. Stites was medically able to work beginning with the week of January 11, 2009.

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".

The evidence in the record establishes that Mr. Stites had not been released to return to work until late in the week of January 4, 2009. Because of this, benefits must be withheld for that week. However, the evidence establishes that Mr. Stites was medically able to work beginning with the week of January 11, 2009.

DECISION:

The unemployment insurance decision dated February 13, 2009, reference 01, is reversed. While the claimant is not eligible to receive unemployment insurance benefits for the week ending January 10, 2009, he is entitled to receive benefits beginning January 11, 2009, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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