

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTHONY M SIMMONS
Claimant

APPEAL NO. 09A-UI-11386-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARION TIRE COMPANY INC
Employer

**Original Claim: 06/21/09
Claimant: Respondent (1)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Marion Tire Company (employer) appealed a representative's August 6, 2009 decision (reference 04) that concluded Anthony Simmons (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 24, 2009. The claimant participated personally. The employer participated by Katherine Benham, Office Manager.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant worked for the employer from October 23, 2008, to June 12, 2009. During his employment, the claimant suffered a non-work-related injury to his knee. His physician restricted him from all work from June 12, 2009, through June 22, 2009. After June 22, 2009, the claimant was released to return to work with restrictions. The claimant filed for unemployment insurance benefits with an effective date of June 21, 2009.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able and available for work after June 22, 2009.

871 IAC 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 injured and unable to perform work due to that injury, he is considered to be unavailable for work. The claimant was released to return to work with restrictions by his physician. He is considered to be available for work after June 22, 2009, because his physician stated he was able and available for work. The claimant is not disqualified from receiving unemployment insurance benefits after June 22, 2009.

DECISION:

The representative's August 6, 2009 decision (reference 04) is affirmed. The claimant is not disqualified from receiving unemployment insurance benefits after June 22, 2009.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw