

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GLEEKIA M DAHN
Claimant

APPEAL NO. 11A-UI-13781-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 09/18/11
Claimant: Appellant (4)

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Gleekia M. Dahn filed a timely appeal from an unemployment insurance decision dated October 18, 2011, reference 01, that disqualified him for benefits upon a finding that he had voluntarily left employment with Tyson Fresh Meats, Inc. without good cause attributable to the employer. The appeal asserted that Mr. Dahn was on a medical leave of absence. Due notice was issued for a telephone hearing to be held November 14, 2011. Mr. Dahn did not respond to the hearing notice. Kris Travis participated for the employer.

ISSUE:

Is the claimant eligible for unemployment insurance benefits?

FINDINGS OF FACT:

Gleekia M. Dahn filed a claim for unemployment insurance benefits effective September 18, 2011. At the time, he was on a medical leave of absence from employment with Tyson Fresh Meats, Inc. The employment did not come to an end. Mr. Dahn returned to work on November 7, 2011.

REASONING AND CONCLUSIONS OF LAW:

It is clear from the evidence in the record that no separation from employment occurred. The real question is whether Mr. Dahn was eligible for unemployment insurance benefits from September 18, 2011, through November 5, 2011, the last week before his return to work.

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 who is on a negotiated leave of absence is considered to be unavailable for work. See 871 IAC 24.22(2)j. The evidence in this record establishes that Mr. Dahn was on a medical leave of absence during the weeks in question. Therefore, benefits must be withheld. Denial of benefits under this section of the law is on a week-by-week basis. Mr. Dahn is not required to re-qualify by earning ten times his weekly benefit amount.

DECISION:

The unemployment insurance decision dated October 18, 2011, reference 01, is modified. The claimant is ineligible for unemployment insurance benefits for the period of September 18, 2011, through November 5, 2011.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw