

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GLEN A JOHNSTON**  
Claimant

**APPEAL NO. 09A-UI-16786-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FIRST FLEET INC**  
Employer

**Original Claim: 06/08/08  
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Glen Johnston (claimant) appealed a representative's June 25, 2009 decision (reference 04) that concluded he was not eligible to receive unemployment insurance benefits because he was not able to perform work for First Fleet (employer) as of May 10, 2009. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 18, 2009. The claimant was represented by Jeremy Flaming, Attorney at Law, and participated personally. The employer participated by Matt Childs, Terminal Manager.

**ISSUE:**

The issue is whether the claimant was able and available for work from May 10 through June 7, 2009.

**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 February 21, 2008, to the present. The claimant was not restricted from working by his physician from May 10 through June 7, 2009. The claimant was able and available for work during that period.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant was able and available for work from May 10 through June 7, 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 ill and unable to perform work due to that illness, he is considered to be unavailable for work. The claimant was not restricted from working by his physician during that time. He is considered to be able and available for work from May 10 through June 7, 2009. The claimant is not disqualified from receiving unemployment insurance benefits.

**DECISION:**

The representative's June 25, 2009 decision (reference 04) is reversed. The claimant is not disqualified from receiving unemployment insurance benefits from May 10 through June 7, 2009.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/kjw