

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROSS J MOSES

Claimant

APPEAL NO: 10A-UI-03625-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC

Employer

OC: 0 /0/09

Claimant: Appellant (1)

Section 96.4-3 – Able and Available
871 IAC 24.23(34) – Unable to Work/Injury

STATEMENT OF THE CASE:

The claimant appealed a department decision dated March 3, 2010, reference 01, that held he was unable to perform work due to injury on January 24, 2010, and benefits are denied. A telephone hearing was scheduled for June 14, 2010. The claimant and employer did not participate.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds: The claimant worked for the employer as a full-time production worker from October 22, 2009 until January 28, 2010. The employer placed the claimant on medical leave of absence, as he was unable to perform work due to an injury. The department issued a recent decision dated June 7, 2010 that disqualifies the claimant as being unable to work due to an injury.

The employer declined to participate. The claimant and a witness were not available when called for the hearing.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes that the claimant left work on a medical leave of absence on January 28, 2010, as he is unable work due to an injury.

The claimant was recently denied benefits in a department decision dated June 7, 2010 for the same reason he was denied in this matter. The claimant needs to provide medical documentation to the department and employer that he has received an unrestricted release to return to work.

DECISION:

The department decision dated March 3, 2010, reference 01, is affirmed. The claimant is disqualified January 28, 2010 for being unable to work due to injury. Benefits are denied.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs