

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDY NAU
Claimant

APPEAL NO. 07A-UI-10563-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

LEADING EDGE PORK LLC
Employer

OC: 08-19-07 R: 03
Claimant: Respondent (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The employer filed a timely appeal from the November 6, 2007, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 3, 2007. The claimant participated in the hearing with his wife, Tina Nau. Karen Robinson, Office Manager, and Wayne Peugh, Owner, participated in the hearing on behalf of the employer. Claimant's Exhibit A was admitted into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time herdsman for Leading Edge Pork from September 11, 2006 to November 28, 2006. He was suffering from respiratory problems and underwent medical testing, but it could not find anything wrong with him. He was released to return to light duty work November 29, 2006, and was granted a full medical release December 4, 2006 (Claimant's Exhibit A).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for 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".

The claimant received a release for light duty work November 29, 2006, and a full release December 4, 2006. There is no evidence that he is not able and available for work. Accordingly, benefits are allowed.

DECISION:

The November 6, 2007, reference 01, decision is affirmed. The claimant is able to work and available for work effective December 4, 2006. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw