

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NAVARRO TORRES
Claimant

APPEAL NO. 06A-UI-10946-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/26/06 R: 02
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Navarro Torres (claimant) appealed a representative's November 7, 2006 decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits for the week ending October 21, 2006, because he was in the hospital and unable to work. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on November 29, 2006. The claimant participated personally.

ISSUE:

The issue is whether the claimant was 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 May 30, 1999, to October 17, 2006, as a full-time welder. The claimant was absent infrequently and always properly reported his absences to the employer.

In October 2006, the claimant suffered from depression and had to be hospitalized from October 9 through 14, 2006. He was unable to report his absence due to his condition, but his mother reported the absence to the employer for him. On Saturday, October 14, 2006, he was released to return to work, but the employer was not open on the weekends. On Monday, October 16, 2006, the claimant returned to work with his physician's release. On October 17, 2006, the employer terminated the claimant for his absence from work.

On October 18, 2006, the claimant returned to the hospital to adjust his medication. He was released from the hospital without restrictions on October 20, 2006. The claimant reopened his claim for benefits with an effective date of October 15, 2006.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant was not able and available for work for the week ending October 21, 2006.

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 in the hospital from October 9 through 14 and 18 through 20, 2006. He is considered to be unavailable for work for the week ending October 21, 2006. The claimant is disqualified from receiving unemployment insurance benefits for the week ending October 21, 2006, due to his unavailability for work.

DECISION:

The representative's November 7, 2006 decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits for the week ending October 21, 2006, because he was not available for work with the employer.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw