

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

MANUELA SANCHEZ  
4520 S 61<sup>ST</sup> AVE  
OMAHA NE 68117

TYSON FRESH MEATS INC  
C/O FRICK UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-06814-S2T  
OC: 05/22/05 R: 12  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Manuela Sanchez (claimant) appealed a representative's June 20, 2005 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work with Tyson Fresh Meats (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 21, 2005. The claimant participated personally. The employer participated by Mike LeFevre, Plant Human Resources Manager. The claimant offered one exhibit which was marked for identification as Exhibit A. Exhibit A was received into evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on June 17, 2002, as a full-time machine operator. The claimant was pregnant and due in April 2005. The claimant provided the employer with a physician's statement which indicated that the claimant could not perform her work duties as of April 8, 2005. The claimant notified the employer of her condition and the employer agreed to her absence from work. The claimant notified the employer that she was certified to return to work by her physician on August 1, 2005. The employer is ready to return the claimant to work as soon as she is released.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant was able and available for work. For the following reasons the administrative law judge concludes she is not.

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 she is considered to be unavailable for work. The claimant was restricted from working from April 8 to August 1, 2005. She is considered to be unavailable for work after April 8, 2005. The claimant is disqualified from receiving unemployment insurance benefits beginning April 8, 2005, due to her unavailability for work.

DECISION:

The representative's June 20, 2005 decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she is not available for work with the employer.

bas/kjw