

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CLAY D GARLOW
Claimant

APPEAL NO. 08A-UI-04550-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON PREPARED FOODS INC
Employer

OC: 03/23/08 R: 04
Claimant: Appellant (2)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Clay Garlow filed an appeal from a representative's decision dated May 8, 2008, reference 01, which denied benefits effective March 23, 2008 upon a finding the claimant was not able to perform work. After due notice was issued, a hearing was held by telephone on May 28, 2008. Mr. Garlow participated personally. The employer's witness, Ron Wood, was not available at the time of the hearing.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant last worked for this employer on August 29, 2007. The claimant had been allowed to work with doctor's restrictions for an approximate six-week period before being removed from his job position by the employer. Upon opening a claim for unemployment insurance benefits, Mr. Garlow actively sought re-employment by contacting perspective employers. The claimant's medical limitations do not effect the claimant's ability to accept employment in the general work force. The claimant has sought employment which complies with doctor's limitations. At the time of the hearing the claimant has been hired to begin work on a full-time basis with another employer.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes the claimant is able and available for work within the meaning of the Iowa Employment Security Act. It does. The evidence establishes that although Mr. Garlow has some medical limitations, he has actively sought work in the general work force and has been accepted as an employee by a new employer. The claimant's limitations do not effectively remove him from employment in general employment.

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.

For the reasons stated herein, the administrative law judge concludes the claimant is able to work. Unemployment insurance benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated May 8, 2008, reference 01, is hereby reversed. The claimant is able to work. Unemployment insurance benefits are allowed, provided the claimant meets other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs