

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SCOTT A PICKENS**  
Claimant

**APPEAL NO. 09A-UI-17817-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AMERICAN ENTERPRISE SERVICES  
COMPANY**  
Employer

**OC: 10/11/09  
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated November 16, 2009, reference 02, which held claimant not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on January 7, 2010. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate. Exhibit A was admitted into evidence.

**ISSUE:**

The issue in this matter is whether 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: Claimant went off work due to illness. Claimant was discharged prior to his recovery. Claimant was able to return to work full time effective November 1, 2009.

**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".

Inasmuch as the illness was not work related and the treating physician has released the claimant to return to work, the claimant has established the ability to work full time. Benefits shall be allowed effective November 1, 2009.

**DECISION:**

The decision of the representative dated November 16, 2009, reference 02 is reversed with modification of the date effective for benefits. Claimant is eligible to receive unemployment insurance benefits, effective November 1, 2009, provided claimant meets all other eligibility requirements.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

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