

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DOUGLAS R CROOKS**  
Claimant

**SPARBOE FOODS LLC**  
Employer

**APPEAL 16A-UI-09719-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/14/16**  
**Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 1, 2016, (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant was unable to perform work due to illness. The parties were properly notified of the hearing. A telephone hearing was held on September 22, 2016. The claimant, Douglas R. Crooks, participated. The employer, Sparboe Foods, L.L.C., did not register a telephone number at which to be reached and did not participate in the hearing. Claimant's Exhibit A was received and admitted into the record without objection.

**ISSUE:**

Is the claimant able to work and available for work effective August 14, 2016?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant fell ill in April 2016, during his employment with the employer named above. Claimant was placed on an FMLA leave of absence. Claimant had planned on returning to work for the employer once he was cleared to return to work, but the employer discharged him before that time. Claimant was ultimately released to return to work on August 9, 2016. (Exhibit A) His health issues are ongoing, but he has been cleared to work full time. Claimant is currently looking for factory work, as he has experience in that area.

**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 effective August 14, 2016..

Iowa Code § 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".

Iowa Admin. Code r. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

To be able to work, "[a]n individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood." *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1). "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides." *Sierra* at 723.

In this case, claimant testified that his employer ended his employment while he was on medical leave. Claimant is no longer obligated to return to employer upon his medical release to offer his services. Claimant was released to return to work without restrictions effective August 9, 2016. At that point, his ability to work is not measured by the job he held most recently, but by standards of his education, training, and work history. Claimant testified that he is currently looking for factory work, as he has experience in that area and has no restrictions that would prevent him from performing that type of work. Claimant has established that he is able to and available for work. Benefits are allowed.

**DECISION:**

The September 1, 2016, (reference 02) unemployment insurance decision is reversed. The claimant is able to work and available for work effective August 14, 2016. Benefits are allowed, provided he is otherwise eligible.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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