

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STANLEY H MC HAWES
Claimant

APPEAL NO: 11A-UI-12800-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEHRLE TRUCKING INC
Employer

OC: 09/04/11
Claimant: Respondent (1)

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.4(6) – Department Approved Training

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's September 27, 2011 determination (reference 03) that held the claimant eligible to receive benefits as of September 4, 2011, because he was able to and available for work. The claimant participated at the hearing. Jason Wehrle, the manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant able to and available for work as of September 4, 2011.

ISSUE:

As of September 4, 2011, is the claimant able to and available for work?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of September 4, 2011. He started working for the employer in November 2008 as an over-the-road truck driver. In mid-November 2010, while on vacation he tore or ruptured a tendon in his knee. The claimant was unable to do any work until August 2, 2011.

The claimant's physician released him to work, but the claimant's physician told the claimant he could not return to work as a truck driver. After the claimant was released to work, he has been looking for work as a security guard and in retail sales. He has experience in both areas. To improve his employment skills, the claimant has received Department Approved Training as of September 4, 2011. The claimant is taking a master's class in criminal justice through a Vocation Rehabilitation Program. The claimant established a claim for benefits during the week of September 4, 2011. He has filed claims for weekly benefits.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4(3). A claimant is not required to look for work and is considered able to and

available work each week he files a claim and when has received Department Approved Training. Iowa Code § 96.4(6).

The facts establish that if the claimant had not received Department Approved Training status, he would still be able to and available for work as of September 4, 2011. To be eligible to receive benefits, the claimant does not have to establish he is available to perform work as a truck driver, only that he is able to and available to perform meaningful employment in which he has work experience. 871 IAC 24.23(19).

Since the claimant has received Department Approved Training, his work search requirements are waived and he is considered and able to and available for work while he attends classes.

DECISION:

The representative's September 27, 2011 determination (reference 03) is affirmed. Even though the claimant is not able to work as a truck driver again, he established he is able to and available to work in other meaningful employment. During the time the claimant has Department Approved Training status, he is not required to look for work and the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css