

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
DANNY L SHAFFER Claimant	APPEAL NO. 07A-UI-06349-H2T
ROETZEL TRUCKING INC Employer	ADMINISTRATIVE LAW JUDGE DECISION
	OC: 02-25-07 R: 01 Claimant: Respondent (1)

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 12, 2007, reference 03, decision that found the claimant able to and available for work, thus eligible for unemployment insurance benefits. After due notice was issued, a hearing was held on July 12, 2007. The claimant did not participate. The employer did participate through Gerald Roetzel, Owner/President.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The employer knows of no reason why the claimant cannot work at any occupation other than commercial truck driver, as the claimant no longer has a CDL. Not all jobs the claimant is capable of performing require a commercial drivers license.

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.

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".

Not every job the claimant is capable of performing requires a commercial drivers license. Thus, while the claimant may no longer be able to work as an over-the-road driver, he can perform some work. Thus, he is able to and available for work. Accordingly, benefits are allowed.

DECISION:

The June 12, 2007, reference 03, decision is affirmed. The claimant is able to work and available for work effective February 25, 2007. Benefits are allowed.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw