

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KITRIC DIXON
Claimant

HEARTLAND EXPRESS INC OF IOWA
Employer

APPEAL 15A-UI-11741-DL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/27/15
Claimant: Appellant (2)

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 October 16, 2015, (reference 01) unemployment insurance decision that denied benefits based upon not being able to or available for work. The parties were properly notified about the hearing. A telephone hearing was held on November 5, 2015. Claimant participated. Employer participated through company vice president of safety and human resources Gary King.

ISSUE:

Is the claimant able to and available for work effective September 20, 2015?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed full time as a truck driver based out of the Phoenix, Arizona terminal. He was off work for foot surgery until September 21, 2015, when he was released to work. He found out his CDL was suspended for non-payment of a scale ticket dated April 4, 2014. He mailed the original ticket via the employer's internal mail system to the Iowa safety department from the Arizona terminal but it was lost in the process. The DOT suspended his license effective August 24, 2015, for non-payment. He did not get reminders or CDL notices from the DOT. Ultimately the employer resolved the issue and he returned to work the week ending October 31, 2015, when he earned and reported gross wages of \$300.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able to work and available for work for the period in question.

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

An individual claiming benefits must be able to work and available for work, but the reason he was not able to work due to the CDL suspension was because the employer did not pay the scale ticket. While the employer did not receive notice until August 2015, there is no evidence the claimant did not promptly mail the original to the employer after it was received in April 2015. Accordingly, benefits are allowed between September 20 and the week ending October 31, 2015, after deduction of \$300.00 in wages for that last claim week.

DECISION:

The October 16, 2015, (reference 01) unemployment insurance decision is reversed. The claimant is able to work and available for work effective September 20, 2015. Benefits are allowed between September 20 and the week ending October 31, 2015, after deduction of \$300.00 in wages for that last claim week.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css