

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES E LANCASTER
Claimant

APPEAL NO. 12A-UI-04874-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/15/12
Claimant: Appellant (1)

Iowa Code section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

James Lancaster filed a timely appeal from the April 20, 2012, reference 01, decision that denied benefits effective April 15, 2012 based on an agency conclusion that he was not able to perform work due to injury. After due notice was issued, a hearing was held on May 21, 2012. Mr. Lancaster participated.

ISSUE:

Whether the claimant has been able to work and available for work since establishing his claim for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: James Lancaster is an over-the-road truck commercial truck driver and most recently performed work on March 3, 2012. At that time, Mr. Lancaster was employed full time by a trucking company. Mr. Lancaster intends to return to work at that trucking company and has not looked for other employment.

On March 3, 2012, Mr. Lancaster suffered a heart attack while he was operating the employer's tractor-trailer on a four-lane highway. Mr. Lancaster had passed out and the tractor-trailer came to rest against a tree-lined barrier. An off-duty EMT was nearby and stayed with Mr. Lancaster until an ambulance crew arrived and used a defibrillator to restart Mr. Lancaster's heart. Mr. Lancaster remained in the hospital until he was discharged to home on March 12, 2012. By that time, Mr. Lancaster had undergone a surgical procedure to have a stent placed in one of his arteries. The hospital referred Mr. Lancaster for follow up care with a cardiologist closer to his home. Mr. Lancaster had one follow up appointment with the cardiologist and has another appointment scheduled for June. Mr. Lancaster has not discussed with his doctor whether he is released to return to his truck driving duties. Mr. Lancaster's employer had indicated that they will return him to his truck driving duties as soon as he undergoes a D.O.T. physical and is released to return to work. The employer will arrange for the physical, but is waiting for Mr. Lancaster to indicate that he is ready to have the physical scheduled. Mr. Lancaster has not yet contacted the employer to request the D.O.T. physical be scheduled.

Mr. Lancaster established a claim for unemployment insurance benefits that was effective April 15, 2012.

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".

Iowa Administrative Code rule 871 IAC 24.23 provides, in relevant part, as follows:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

24.23(1) An individual who is ill and presently not able to perform work due to illness.

24.23(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

24.23(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Unfortunately, Mr. Lancaster does not meet the work ability and availability requirements of the law and is not eligible for unemployment insurance benefits, effective April 15, 2012. Mr. Lancaster went off work due to a serious health condition. Mr. Lancaster underwent a surgical procedure to address the health condition. Mr. Lancaster continues to be off work from his most recent employment and intends to return to that employment once he passes a D.O.T. physical. Mr. Lancaster continues under the care of a cardiologist. Mr. Lancaster has presented insufficient evidence to establish that he has been released by a doctor to return to his truck driving duties or any other kind of work.

Mr. Lancaster must meet all the requirements of Iowa Code section 96.4(3), above, to be eligible for unemployment insurance benefits. Mr. Lancaster would need to provide medical proof that he has been released by his cardiologist to return to work. Mr. Lancaster would otherwise have to demonstrate that he is both able to work full time and available for full-time work.

DECISION:

The Agency representative's April 20, 2012, reference 01 is affirmed. The claimant not been able and available for work since establishing his claim for benefits. Accordingly, the claimant is not eligible for benefits. Benefits are denied effective April 15, 2012.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css