

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD K WOLBING
Claimant

APPEAL NO: 13A-UI-03497-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DECKER TRUCK LINE INC
Employer

OC: 01/27/13
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Able to and Available for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 13, 2013 determination (reference 02) that held him ineligible to receive benefits as of January 27, 2013, because he was unable to work as the result of an illness. The claimant participated in the hearing. Andrea Kloberdanz and Brenda McNealey 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 eligible to receive benefits as of January 27, 2013.

ISSUE:

As of January 27, 2013, is the claimant able to and available for work?

FINDINGS OF FACT:

Before the claimant started working as a truck driver for the employer in August 2010, he worked in management for manufacturing businesses. He also owned his own company.

In December 2012 as a result of the claimant's wife medical diagnosis, the claimant was granted a leave of absence under the Family Medical Leave Act. The claimant was to return to work by January 21, 2013. After the claimant's physician released him to work, he was packed and in his truck ready to return work on January 14 when the employer's physician told the claimant he could not return to work as a commercial driver. Prior to January 14, the employer asked their physician to review the claimant's records after learning the claimant was taking anti-anxiety medication. After the claimant's physician prevented the claimant from returning to work as a driver, the employer discharged him. (The claimant's employment separation has already been determined.)

The claimant established a claim for benefits during the week of January 27, 2013. He has been looking for and applying for work as a production supervisor. He will accept almost any job that allows him to be home at night or during the day.

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). Even though the claimant may not be able to work as a commercial driver while he takes anti-anxiety medication, he has work experience in another occupation and is currently looking for work in which he has experience. Therefore, as of January 27, 2013, the claimant is eligible to receive benefits.

DECISION:

The representative's March 13, 2013 determination (reference 02) is reversed. Even though the claimant may no longer be able to drive a commercial truck, he established he is able to and available for work in another occupation in which he has prior experience. As of January 27, 2013, the claimant is eligible to receive benefits, provided he meets all other eligibility requirements. .

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css