

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KENNETH W LORENZ**  
Claimant

**APPEAL NO. 07A-UI-02123-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GRAY TRANSPORTATION INC**  
Employer

**OC: 10/29/06 R: 04  
Claimant: Respondent (1)**

Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

Gray Transportation, Inc. filed an appeal from a representative's decision dated February 21, 2007, reference 02, which held that Kenneth Lorenz was medically able to work as of January 21, 2007. After due notice was issued, a hearing was held by telephone on March 19, 2007. Mr. Lorenz participated personally and Exhibit A was admitted on his behalf. The employer participated by Darrin Gray, President.

**ISSUE:**

At issue in this matter is whether Mr. Lorenz was able to work as of January 21, 2007.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Lorenz last performed services for Gray Transportation, Inc. on July 27, 2006 as a full-time truck driver. He was restricted to light-duty work as of August 14, 2006, due in part to an injury sustained at work on February 24, 2006. Because of multiple health issues, Mr. Lorenz was unable to pass the Department of Transportation physical required for his job. Since he could not pass the physical, he could not return to his former job as a truck driver. The employer did not have light-duty work available.

Mr. Lorenz can only stand or walk for four to eight minutes of each hour. He cannot engage in crawling, kneeling, or squatting. He cannot use his right foot and leg to maneuver pedals for driving. Mr. Lorenz has a 12-grade education with additional training as a truck driver. He also has past work experience as a machine operator. He is currently seeking work as a dispatcher or telephone sales representative. He could also be a machine operator if the job allowed him to sit. He can perform office work or assembly work. He is able to engage in some work activity.

**REASONING AND CONCLUSIONS OF LAW:**

In order to receive job insurance benefits, an individual must be able to and available for work. Iowa Code section 96.4(3). The law does not require that an individual be able to return to his

former job, only that he be able to engage in some type of work activity that is engaged in by others as a means of livelihood. 871 IAC 24.22(1). It is clear that Mr. Lorenz is not able to return to his former job as a truck driver at this time. However, the administrative law judge is satisfied that he is able to engage in some work activity. His medical restrictions do not preclude all work, just that which requires him to be on his feet for prolonged periods of time or to squat or kneel.

Mr. Lorenz has a 12-grade education. The administrative law judge believes there are a sufficient number of unskilled jobs he should be able to perform that would not be contrary to his medical restrictions. He could perform telephone sales or other jobs that are conducted over the telephone, such as customer service. He could perform bench assembly work where he would sit and assemble parts. For the reasons stated herein, the administrative law judge concludes that Mr. Lorenz is able to work within the meaning of the law. Accordingly, benefits are allowed as of the Sunday of the week in which his doctor released him, January 21, 2007.

**DECISION:**

The representative's decision dated February 21, 2007, reference 02, is hereby affirmed. Mr. Lorenz satisfied the availability requirements of the law effective January 21, 2007. Benefits are allowed, provided he satisfies all other conditions of eligibility.

---

Carolyn F. Coleman  
Administrative Law Judge

---

Decision Dated and Mailed

cfc/css