

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEONARD E ZIMMERMAN
Claimant

APPEAL NO: 16A-UI-03095-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CNH AMERICA LLC
Employer

**OC: 01/03/16
Claimant: Appellant (4)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Leonard Zimmerman (claimant) appealed a representative's March 3, 2016 (reference 03) decision that concluded he was not eligible to receive unemployment insurance benefits because he was not able to perform work with CNH America (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 28, 2016. The claimant participated personally and through Jodi Hahn, partner. The employer did not provide a telephone number where it could be reached and, therefore, did not participate in the hearing. The claimant offered and Exhibit A was received into evidence.

ISSUE:

The issue is whether the claimant is able and available for work as of January 24, 2015.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant's physician released him to return to work as of January 13, 2016. He worked for Federal Mogul Champion from February 17, 2016 to March 4, 2016; as a full-time inspector. The claimant did not file for unemployment insurance benefits while he was working except for the week ending March 5, 2015. For the week ending March 5, 2016, he reported his income to the agency and did not receive any unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant is not able and available for work for the week ending March 5, 2016.

Iowa Admin. Code r. 871-24.23(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant was hired as a full-time worker for the week ending March 5, 2016. The claimant is not considered unemployed. He is disqualified for being unavailable for work.

DECISION:

The representative's March 3, 2016 (reference 03) decision is modified in favor of the appellant. The claimant is not able and available for work for the week ending March 5, 2016.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

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