

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TYRONE FARRIS
Claimant

APPEAL NO: 13A-UI-04087-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 02/10/13
Claimant: Appellant (2/R)

Iowa Code § 96.4(3) – Availability for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 28, 2013 determination (reference 02) that held him ineligible to receive benefits as of February 17, 2013, because he worked enough hours to be considered employed and not available. The claimant participated at the hearing. Prior to the hearing, the employer did not provide the phone number at which the employer could be contacted for the hearing. The employer called to participate in the hearing after the claimant had been excused and the hearing had been closed. The employer decided a decision could be made based on the claimant's testimony. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is eligible to receive benefits for the weeks ending February 16 through March 2, 2013.

ISSUE:

Is the claimant available to work during the weeks ending February 16 through March 2, 2013?

FINDINGS OF FACT:

The claimant started working for the employer as an over-the-road driver in June 2012. The claimant works with a co-driver. The truck they drove needed repairs. On February 10, the truck went in for repairs.

The co-driver test drove another truck, but this truck also needed repairs. The claimant and his co-driver had to wait for a truck to drive. The truck that went to the repair shop on February 10 was not finished until March 2, 2013. After the truck was repaired, the claimant was again working full time.

The claimant established a claim for benefits during the week of February 10, 2013. He filed claims and received benefits for the weeks ending February 16 through March 2, 2013.

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). The law presumes a claimant is not available for work when a claimant works to such a degree that he is removed from the labor market. 871 IAC 23.23. While the claimant was not available for work prior to February 10 and after March 2, 2013, he was available for work during the weeks ending February 16, 23 and March 2, 2013. During these weeks, he was on a temporary layoff because he and his co-worker did not have a truck to drive. Once their truck was repaired, the claimant again began working full time. The evidence establishes the claimant is eligible to receive benefits for the weeks ending February 16, 23 and March 2, 2013.

The record indicates an overpayment determination was issued in early May 2013 (reference 01). Based on this decision, the issue of overpayment is remanded to Claims Section to amend the overpayment determination to reflect the claimant has not been overpaid benefits for these three weeks.

DECISION:

The representative's March 28, 2013 determination (reference 02) is reversed. The claimant was available for work and eligible to receive benefits for the weeks ending February 16, 23 and March 2, 2013. Based on this decision, an issue of overpayment that was addressed in an early May 2013 determination (reference 01) is **Remanded** to the Claims Section to amend this decision to reflect the claimant has not been overpaid any benefits for these three weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs