

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DUANE FOSTER**  
Claimant

**APPEAL NO: 16A-UI-00544-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COMPASS GROUP USA INC**  
Employer

**OC: 11/29/15**  
**Claimant: Respondent (1)**

Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 5, 2016, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 25, 2016. The claimant participated in the hearing. Patrick Roof, Customer Service Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant is able and available for work.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time route driver for Compass Group USA from January 29, 2013 to January 21, 2015. The claimant sustained a work-related injury February 18, 2014. He returned to work for a period of time in December 2014 and January 2015. He was working with restrictions accommodated by the employer until January 21, 2015, at which time the employer decided it could no longer accommodate his restrictions with light-duty work. The employer still considers the claimant an employee but the claimant's 20-pound weight restriction is permanent.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is able and available for work.

Iowa Code § 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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Inasmuch as the injury is considered work related for the purposes of unemployment insurance benefits only and the treating physician has released the claimant to return to work, even with restrictions, the claimant has established his ability to work. Because the employer had no work available or was not willing to accommodate the work restrictions, benefits are allowed.

**DECISION:**

The representative's decision dated January 5, 2016, (reference 01) is affirmed. The claimant is able to work and available for work effective November 29, 2015. Benefits are allowed, provided he is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/css