

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON H CALEASE
Claimant

APPEAL NO. 08A-UI-00469-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DUSIL, MICHAEL G
LAND DESIGNS
Employer

OC: 12/02/07 R: 03
Claimant: Respondent (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated January 15, 2008, reference 02, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on January 23, 2008. Claimant participated personally. Employer participated by Michael Dusil, Owner. Exhibits One and Two were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for the employer October 11, 2007. Claimant went off due to a work-related injury July 25, 2007. Claimant was released to return to work October 11, 2007 without restriction. Claimant had incurred a traffic citation for driving while under the influence of alcohol, which resulted in the loss of his commercial driver's license. Claimant did not have a valid CDL as of October 11, 2007. Employer refused to bring claimant back to work October 11, 2007 because of the lack of a CDL. Claimant was hired to drive a truck for the employer, which required a CDL. Claimant was asked to turn in his keys with his employment terminated on October 11, 2007. Claimant had means of transportation to and from work but could not drive the company truck when at work.

Employer discharged claimant on October 11, 2007 because claimant lost his CDL.

REASONING AND CONCLUSIONS OF LAW:

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

Claimant is able and available for work effective October 11, 2007 as he had no work restriction imposed by he doctor. Claimant had a means of transportation to and from work. Claimant is able and available for work.

DECISION:

The decision of the representative dated January 15, 2008, reference 02, is affirmed. Claimant is able and available for work effective October 11, 2007.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw