

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JASON L HEAD**  
Claimant

**APPEAL NO. 13A-UI-05777-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CGS TIRES US INC**  
Employer

**OC: 04/14/13**  
**Claimant: Appellant (1)**

Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The claimant, Jason Head, filed an appeal from a decision dated May 10, 2013, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on June 24, 2013. The claimant participated on his own behalf. The employer, CGS Tires US, Inc. (CGS), participated by Department Head Jason Zorzi.

**ISSUE:**

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

**FINDINGS OF FACT:**

Jason Head was employed by CGS beginning June 18, 2012 as a full-time operator. He provided the employer with a note from his doctor on April 11, 2013, stating he was able to return to work on April 13, 2013 on "light duty." There were no specifics provided as to what limitations he had. The condition is not work-related.

He was told by Department Head Jason Zorzi to keep the employer informed of his status but the only time he contacted CGS was shortly after the fact-finding interview with Iowa Workforce Development. During that phone call he said he had had a hard time even doing the phone interview because his hands and feet were so swollen he could hardly hold the receiver or stand.

The employer has attempted to mail him notices but the documents are returned as undeliverable.

The parties were advised by the administrative law judge prior to the hearing that if the connection was lost during the hearing, the judge would not call back until the Appeals Section was contacted with a new phone number or an assurance the original phone was working again. The claimant lost the connection on the cell phone at 9:20 a.m. By the time the record was closed at 9:22 a.m. the claimant had not called back.

At 9:27 a.m. the claimant called back. His cell phone/Magic Jack phone had poor reception and poor connection from the beginning of the call and did not accept calls from numbers he had not dialed first.

**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".

There is nothing in the record to establish the claimant's current medical condition. He has not provided any medical documentation as to what limitations there are on his physical activities or what work he believes the employer has within those restrictions. Mr. Head has not met his burden of proof to establish he is able and available for work either with CGS or within the labor market generally. He is therefore ineligible for benefits.

The claimant's disconnection of the phone call was due to an inadequate phone system and use of a cell phone with poor reception. It is his responsibility to have made reasonable arrangements for a good phone connection and reliable service. The record shall not be reopened.

**DECISION:**

The representative's decision of May 10, 2013, reference 02, is affirmed. Jason Head is ineligible for unemployment benefits as he is not able and available for work.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs