

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NEIL HUCKSTADT
Claimant

APPEAL NO. 11A-UI-07449-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

ENTERPRISE RENT-A-CAR COMPANY
Employer

OC: 04-11-10
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 27, 2011, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 30, 2011. The claimant participated in the hearing. Erin Pederson, fleet logistics supervisor, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant is able and available for work effective June 27, 2010.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a part-time on-call driver for Enterprise Rent-A-Car June 22, 2010, and is still employed in that capacity at this time. The Agency disqualified the claimant from receiving benefits effective five days after his hire date with this employer. He had not established a pattern of employment with the employer at that point and there was no way to determine if he was able and available for work or working to the extent it removed him from the labor market at the time the decision was issued.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able to work and available for work effective June 27, 2010, to April 10, 2011.

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".

The claimant started his part-time employment with Enterprise Rent-A-Car June 22, 2010. He had not established a pattern of employment with the employer in the five days he worked there that would demonstrate he was not able and available for work, working too much to remove him from the labor market, or not eligible for partial unemployment insurance benefits when the decision denying benefits was issued. Accordingly, benefits are allowed from June 27, 2010, to April 10, 2011.

DECISION:

The May 27, 2011, reference 02, decision is reversed. The claimant is able to work and available for work effective June 27, 2010, until April 10, 2011, when he was no longer able and available for work because he was working too many hours to be considered able and available for other work. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw