

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DONALD THORSON**  
Claimant

**EXPRESS SERVICES INC**  
Employer

**APPEAL NO: 13A-UI-06379-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/21/13**  
**Claimant: Respondent (1)**

Section 96.4-3 – Able and Available  
Section 96.3-7 – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the May 22, 2013, 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 July 5, 2013. The claimant participated in the hearing. Angie Harris, Staffing Consultant, 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 hired as a general laborer for Express Services June 26, 2012. He has worked off and on for the employer since that date.

The claimant filed a claim for benefits with an effective date of April 21, 2013, and made weekly claims for benefits through the week ending June 22, 2013. The claimant had difficulty finding childcare on some occasions in the past but his wife retired April 19, 2013, and he has been able and available for work since that day. The claimant went in to the employer to update his application June 18, 2013, and the employer recalled him to work at Poet Bio Refinery June 25, 2013. He continues to work there through the date of this hearing.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work from April 21 through June 22, 2013.

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 has been able and available for work since the date he filed his claim for benefits. Those dates include the week ending April 21 through the week ending June 22, 2013, because he began working again for the employer June 25, 2013. Accordingly, benefits are allowed.

**DECISION:**

The May 22, 2013, reference 01, decision is affirmed. The claimant is able to work and available for work effective April 21, 2013. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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