

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

MICHAEL DZEKUNSKAS
Claimant

APPEAL NO. 17A-UI-04697-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MATT STOOKEY TRUCKING INC
Employer

OC: 03/26/17
Claimant: Appellant (2/R)

Iowa Code § 96.4(3) – Able and Available
871 IAC 24.23(26) – Part-Time Worker – Able and Available

STATEMENT OF THE CASE:

Michael Dzekunskas (claimant) appealed a representative's April 25, 2017, decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits as of March 26, 2017, because he was still employed with Matt Stookey Trucking (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 22, 2017. The claimant participated personally. The employer participated by Matt Stookey, Owner/President. Exhibit D-1 was received into evidence.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work. .

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on March 1, 2010, as a part-time truck driver. On January 27, 2017, the manager called the claimant at home after work. The manager told the claimant not to bother coming in anymore because they did not have anything for the claimant. The claimant asked if he was being fired or laid off. The manager said he did not have anything for the claimant.

In mid-February 2017, the manager called the claimant asking him to work the following day. The claimant agreed. The following day the claimant was sick and reported his absence. The claimant has not heard anything from the employer since mid-February 2017. On March 26, 2017, the claimant filed a claim for unemployment insurance benefits. He is ready, willing, and able to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able and available for work as of March 26, 2017.

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 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 was no evidence that there were any restriction or limitation on employability. Accordingly, benefits are allowed.

The issues of the claimant's separation from employment are remanded for determination.

DECISION:

The representative's April 25, 2017, decision (reference 02) is reversed. The claimant is able and available for work as of March 26, 2017.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/scn