

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES LENAHAN**

Claimant

**APPEAL NO. 07A-UI-03897-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARTLAND EXPRESS INC OF IOWA**

Employer

**OC: 03/27/07 R: 12  
Claimant: Appellant (4)**

Section 96.5(1) – Quit  
Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The claimant, James Lenahan, filed an appeal from a decision dated April 10, 2007, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on May 1, 2007. The claimant participated on his own behalf. The employer, Heartland Express Inc. of Iowa (Heartland), participated by Human Resources Generalist Lea Kahrs.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer and whether he is able and available for work.

**FINDINGS OF FACT:**

James Lenahan was employed by Heartland beginning January 5, 2005, as a full-time over-the-road truck driver. The drivers must have a commercial driver's license, which requires passing a physical every two years. The claimant's last day of work was March 1, 2007, which was the day his last physical certification expired.

After March 1, 2007, the claimant has been attempting to get his certification renewed but encountered some problems because of extra tests needed due to having sleep apnea. He has kept in contact with the director of operations at the Carlisle, Pennsylvania, terminal and the safety director at the Iowa City, Iowa, terminal.

As of the current date he has obtained the necessary equipment to treat his sleep apnea and is attempting to schedule an appointment for another DOT physical to get his certification. Work is available to him as soon as he provides the necessary certification to the employer.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

The claimant has not quit this employment but is on a period of leave until he can obtain the physical certification from DOT. Disqualification may not be imposed.

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 is currently not able to perform his job for the employer because he does not have a current physical certification from DOT. He cannot legally drive without the certification but would be able to resume his regular job duties as soon as he has the necessary documentation.

**DECISION:**

The representative's decision of April 10, 2007, reference 01, is modified in favor of the appellant. James Lenahan is not disqualified from receiving benefits and does not have to requalify by earning ten times his weekly benefit amount.

However, Mr. Lenahan is not able and available for work because he does not have the physical certification required by DOT. As soon as he is able to obtain the necessary documentation, he would be 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

