

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARLES E NOBLE
Claimant

APPEAL NO. 13A-UI-04691-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 03/17/13
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 15, 2013, reference 01, which concluded that the claimant was not eligible for unemployment insurance benefits. A telephone hearing was held on May 22, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Dave Dalmasso, Human Resources, participated in the hearing on behalf of the employer.

ISSUE:

Whether the claimant is able and available for work effective March 17, 2013.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, makes the following findings of fact:

The employer is a trucking company. The claimant was hired on April 5, 2006. He was a full-time driver. His last day of work was December 7, 2012. On December 6, 2012, the claimant became ill due to carbon monoxide poisoning from the exhaust system in the truck that he was driving for the employer. He was hospitalized in Valdosta, Georgia. The claimant was taken off work by his physicians and released to light duty in March 2013. The only restriction he has is that he cannot drive a truck. The claimant has been actively looking for work at warehouses and Wal-Mart. He has not been paid any workers' compensation benefits by the employer.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

The claimant is eligible for unemployment insurance benefits effective March 17, 2013. The evidence showed that the claimant was released for light duty following an incident of carbon monoxide poisoning. The claimant's only work restriction is that he cannot drive a truck. The employer's witness had no information on why the claimant was not allowed to return to light-duty work or why he was not being paid worker's compensation benefits. The claimant showed that he was actively seeking work and identified several types of jobs that he could do. The claimant is therefore able and available for work effective March 17, 2013.

DECISION:

The unemployment insurance decision dated April 15, 2013, reference 01, is reversed. Claimant is eligible for benefits effective March 17, 2013, provided he meets all other eligibility requirements.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css