

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROLYN BLYTHE

Claimant

APPEAL NO. 08A-UI-09661-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA

Employer

**OC: 08/31/08 R: 12
Claimant: Appellant (4)**

Section 96.4(3) - Able and Available

STATEMENT OF THE CASE:

The claimant, Carolyn Blythe, filed an appeal from a decision dated October 13, 2008, reference 01. The decision found her ineligible from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on November 5, 2008. The claimant participated on her own behalf. The employer, Heartland Express, participated by Human Resources Generalist Lea Peters.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Carolyn Blythe began employment with Heartland Express on June 12, 2002 as a full-time over-the-road truck driver. She requested, and was granted, a leave of absence beginning August 7, 2008, for a non-work-related medical problem. Her doctor released her without restrictions on August 26, 2008, and the documentation was sent to the employer the same date. But federal department of transportation regulations require a certification from her cardiologist and a new DOT physical. This was completed and sent to the employer September 3, 2008, but the employer's safety department had to review the documentation for compliance.

The safety department approved the paperwork on September 8, 2008, but no trucks were available for the claimant to be dispatched until September 16, 2008. She is currently employed with Heartland Express in the same capacity as during her base period. Ms. Blythe filed a claim for unemployment benefits with an effective date of August 31, 2008.

REASONING AND CONCLUSIONS OF LAW:

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 was not fully released and approved to return to work until September 16, 2008. After that she was not able to return to work because no trucks were available for her. Therefore, she would be eligible for benefits as of the week beginning September 14, 2008.

DECISION:

The representative's decision of October 13, 2008, reference 01, modified in favor of the appellant. Carolyn Blythe was not eligible for benefits for the one-week period from August 31 through September 6, 2008. After that she was available for work but the employer had no work for her.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css