

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT M HILLMAN
Claimant

APPEAL NO: 14A-UI-11634-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 10/12/14
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Able to and Available for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's November 3, 2014 determination (reference 01) that held him ineligible to receive benefits as of October 12, 2014, because he was not available for work. The claimant participated at the December 1 hearing. Dave Dalmasso, the human resource representative, appeared on the employer's behalf. During the hearing, Claimant Exhibits A and B were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is eligible to receive benefits as of October 12, 2014.

ISSUE:

As of October 12, 2014, is the claimant able to and available for work and eligible to receive benefits?

FINDINGS OF FACT:

The claimant established claim for benefits during the week of October 12, 2014. Before the claimant established his claim, he had been working for the employer as a full time over-the-road driver. Based on medical reasons, this employment ended in early October 2014.

After this employment ended, the claimant applied for a job with another employer to work as a relay driver. The physician who completed the claimant's pre-employment physical temporarily disqualified him from working as a commercial driver because he had a hernia and he had not provided a written statement from his cardiologist he had not released him to work as a truck driver. (Claimant Exhibit B.)

After the claimant learned he was not medically certified to drive a commercial vehicle, the claimant established a claim for benefits during the week of October 12, 2014. Since October 12, the claimant has filed weekly claims.

The claimant has made a minimum of two job contacts each week he files for benefits. (Claimant Exhibit A). He is looking for work as a programmer or systems analyst. He has 30 years' experience in this area. The claimant has also looked for work with the employer as a fleet manager or sales person. The claimant is willing to relocate. The claimant has three years' experience as a truck driver.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4(3). The law presumes a claimant is not available for work when he is not willing to accept work in his usual occupation and fails to establish what other work he can perform. 871 IAC 24.23(19).

A claimant is not required to be available to perform the same job he had been performing. If the claimant has experience in other types of work and is not looking for a tailor-made job that would restrict the kind of work he is available to do, he may be eligible to receive benefits. In this case, the claimant cannot currently work as a truck driver, but he has decades of work experience as a programming and systems analyst. This is the type of work he is looking and applying for. The claimant established that he has work experience other than as a truck driver and is looking for work in which he has skills and experience. The claimant established that he is available for work and eligible to receive benefits as of October 12, 2014.

DECISION:

The representative's November 3, 2014 determination (reference 01) is reversed. The claimant established that he is looking for work in which he has experience. As of October 12, 2014, the claimant is available for work and eligible to receive benefits, provided he meets all other eligibility requirements.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs