

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROGER LAKEY
Claimant

APPEAL NO: 11A-UI-04780-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHNEIDER NATIONAL CARRIERS INC
Employer

OC: 12-05-10
Claimant: Appellant (4)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 4, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 9, 2011. The claimant participated in the hearing. Nate Zunker, Driver Business Leader, participated in the hearing on behalf of the employer. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issue is whether the claimant was medically able to work December 11, 2010 through January 22, 2011.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a full-time over-the-road truck driver for Schneider National Carriers August 23, 1992. He suffered a heart attack November 12, 2010, and although his personal physician released him to return to work December 8, 2010, according to the employer's occupational health department and federal DOT regulations regarding heart distress he was not allowed to work until January 14, 2011. He went to the DOT office and was cleared to drive by the medical board and took his DOT issued medical card to the employer's office January 14, 2011. The employer told him he needed to be recertified and that process took one week because of equipment problems with the claimant's truck. He received his first assignment January 21, 2011.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective the week ending January 22, 2011.

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 suffered a heart attack and was unable to drive according to federal DOT guidelines and the employer's occupational health department from November 12, 2010 to January 14, 2011. He was released by his own physician, the employer's occupational health department and the DOT medical board January 14, 2011, but the employer stated he needed to be recertified and his truck was not ready until January 21, 2011. The claimant has no medical restriction or other limitation on his ability to drive truck and employability effective the week ending January 22, 2011. Accordingly, benefits are allowed for the one week ending January 22, 2011.

DECISION:

The April 4, 2011, reference 01, decision is modified in favor of the claimant. The claimant is able to work and available for work effective January 14, 2011, and eligible for benefits the week ending January 22, 2011.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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