

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL B HAYNES
Claimant

HEARTLAND EXPRESS INC OF IOWA
Employer

APPEAL 18A-UI-06028-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/29/18
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

Michael B. Haynes (claimant) filed an appeal from the May 24, 2018, reference 01, unemployment insurance decision that denied benefits based upon the determination he is not able to and available for work effective April 29, 2018 due to injury. After due notice was issued, a telephone conference hearing was held on June 18, 2018. The claimant participated. The employer participated through HR Generalist Lea Peters. No exhibits were offered into the record.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began working for the employer as an Over-the-Road Truck Driver on November 6, 2013. He suffered a work-related injury to his back on August 22, 2017. The claimant's doctor removed him from work at that time.

The claimant was released back to work with restrictions in September 2017. The employer offered him a light duty position which the claimant worked for three weeks, but determined he was unable to work in that position. He then had surgery on his back as well as other treatment. As of April 29, 2018, the claimant has been released back to work by his doctor with a 20-pound lifting restriction and some restrictions on his ability to sit and stand. The claimant is still employed by the employer. The employer has not offered the claimant any further light duty positions to accommodate his restrictions.

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. Benefits are allowed.

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".

Iowa Admin. Code r. 871-24.23 provides, in relevant part:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

...

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Inasmuch as the injury is considered work-related for the purposes of unemployment insurance benefits only and the treating physician has released the claimant to return to work, even with restrictions, the claimant has established his ability to work. Because the employer had no work available or was not willing to accommodate the work restrictions, benefits are allowed.

DECISION:

The representative's decision dated May 24, 2018, reference 01 is reversed. The claimant is able to work and available for work effective April 29, 2018. Benefits are allowed, provided he is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn