

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICHARD D HOBBS**  
Claimant

**APPEAL NO: 09A-UI-04726-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRAIG JONES TRUCKING INC**  
Employer

**OC: 02/15/09**

**Claimant: Appellant (4)**

Section 96.4-3 - Able and Available

**STATEMENT OF THE CASE:**

Richard D. Hobbs (claimant)) appealed a representative's March 20, 2009 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits in conjunction with this employment with Craig Jones Trucking, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 21, 2009. The claimant participated in the hearing. Craig Jones appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

**FINDINGS OF FACT:**

The claimant started working for the employer on January 6, 2007. He worked full time as a driver/operator in the employer's local trucking business, primarily hauling livestock and poultry for various business clients, usually on a Sunday through Thursday basis. His last day of work was January 14, 2009.

The claimant had arranged with the employer to be off work beginning January 15 due to a hand surgery. The claimant was kept off work by his doctor until January 28, 2009, at which time the claimant contacted the employer and advised he could return to work but would need to wear a splint or brace on his left hand and do no lifting with his left hand. This did not interfere with the claimant's normal job duties. However, the business client for which the claimant had primary been doing work had its own business slowdown as of January 19. As a result, even though the claimant could have returned to work as of January 28, there was not work available for him to return to due to the slowdown by the business client.

The claimant had prostate surgery on February 27, 2009 (a Friday). He was released by the doctor on March 30, 2009, and provided a copy of that release to the employer on April 6.

However, there was still no work available for the claimant due to the slowdown at the business client. The employer anticipates it could be possibly October before further work is available for the claimant.

The claimant established an unemployment insurance benefit year effective February 15, 2009. He filed weekly claims for the benefit weeks ending February 21, 2009 and February 28, 2009. He reopened the claim effective April 5, 2009.

#### **REASONING AND CONCLUSIONS OF LAW:**

With respect to any week in which unemployment insurance benefits are sought, In order to be eligible the claimant must be able to work, is available for work, and is earnestly and actively seeking work. Iowa Code § 96.4-3. A person who is under a doctor's restriction against working is not able and available for work. 871 IAC 24.22(1); 871 IAC 24.23(35). A person who is otherwise available for his regular work during the majority of the normal workweek is considered able and available for work for that benefit week. 871 IAC 24.22(2)(h).

The claimant was able and available for his regular duties for the majority of the workweeks for the claim periods ending February 21 and February 28, 2009; he is eligible for unemployment insurance benefits for those weeks. He would not have been eligible for benefits for the period beginning March 1, 2009 until April 4, but he did not seek any benefits for those weeks. As of April 5, 2009, he was again able and available for the majority of the workweeks for the claim periods. Benefits are allowed, if the claimant is otherwise eligible.

#### **DECISION:**

The representative's March 20, 2009 decision (reference 01) is modified in favor of the claimant. The claimant was able and available for work for the claim weeks ending February 21 and February 28, 2009, and as of April 5, 2009 he is currently able to work and available for work. The claimant is therefore qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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