

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NEIL HUCKSTADT**

Claimant

**APPEAL NO. 11A-UI-07448-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ENTERPRISE RENT-A-CAR COMPANY**

Employer

**OC: 04-10-11**

**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 1, 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 June 30, 2011. The claimant participated in the hearing. Erin Pederson, fleet logistics supervisor, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant is able and available for work effective April 10, 2011.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a part-time, on-call driver for Enterprise Rent-A-Car June 22, 2010. He works up to 32 hours per week. He notified the employer he is available for work Tuesdays, Wednesdays, and Thursdays, but not available Mondays and Fridays. He would receive more hours if he were available on Mondays and Fridays, especially during the spring, fall, and summer when the employer is busiest, especially Monday, Thursday, and Friday. Tuesday and Wednesday are generally the employer's slowest days. The employer also has work available on weekends, but the claimant has declined to work weekends.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is not able and available for work to the extent necessary for this position but is working enough hours not to be considered partially unemployed.

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".

871 IAC 24.23(23) and (26) provide:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant is working enough hours that he is not considered able and available for other work. He is also working enough hours that he cannot be considered partially unemployed, as he is working or on call up to 32 hours per week. Accordingly, benefits must be denied effective April 10, 2011.

**DECISION:**

The June 1, 2011, reference 01, decision is affirmed. The claimant is not able to work and available for work effective April 10, 2011. Therefore, benefits must be denied.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw