

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICHARD T CAPEHART**  
Claimant

**APPEAL NO: 14A-UI-03318-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MCF OPERATING LLC**  
Employer

**OC: 02/23/14**

**Claimant: Appellant (4)**

Section 96.4-3 – Able and Available

Section 96.19-38-b – Eligibility for Partial Unemployment Insurance Benefits

**STATEMENT OF THE CASE:**

Richard T. Capehart (claimant) appealed a representative's March 23, 2014 decision (reference 01) that concluded he was not qualified to receive partial unemployment insurance benefits in connection with MCF Operating, L.L.C. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 29, 2014. The claimant participated in the hearing and was represented by Christopher Spaulding, Attorney at Law. Arlyce Diddy 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.

**ISSUES:**

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

**FINDINGS OF FACT:**

The claimant started working for the employer on December 3, 2001. He works full time as a forklift driver in the employer's warehouse operation. His most recent day of work was March 20, 2014.

The claimant reported an ankle injury in January 2014 which he asserted was work related. He described a specific incident which occurred at work which appeared to trigger the injury. He indicated that several doctors, including the employer's workers' compensation doctor, had indicated that at least the final occurrence resulting in the injury was work related. The employer asserted that its workers' compensation carrier was denying coverage, but no specifics were provided as to what the carrier's rationale might be.

The claimant was on light-duty work restrictions of sit down work only, no standing or walking, from February 10 through March 20, and the employer did provide work which met those restrictions. However, for the benefit weeks ending March 1 and March 8, 2014, the employer

did not have sufficient work for the claimant to keep him fully employed. He therefore filed a claim for unemployment insurance benefits and sought partial benefits for those two weeks.

The claimant had surgery on his ankle on March 20, after which he was on a work restriction against all work through April 18. He was then released to the same work restrictions as prior to his surgery. However, the employer no longer had any light duty work available for the claimant, so he filed a continued claim for benefits for the week ending April 28.

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

The unemployment insurance law provides that a claimant is deemed partially unemployment insurance benefits if he is not employed at his usual hours and wages and earns less than his weekly benefit amount plus \$15.00. Iowa Code § 96.19-38-b.

Implicit with the concept of allowing benefits for a claimant who is working fewer hours is that the reduction bringing the earned wages low enough to qualify for partial benefits has been because of the choice of the employer, not that the claimant is not able or willing to work such as due to restrictions from a non-work-related medical condition. 871 IAC 24.22(2); 871 IAC 24.23(10). If the medical condition is due to a work-related issue, then the issue is whether the claimant was able to perform some work, but the employer had no restricted duty work it would provide to the claimant.

While the employer simply asserts that the claimant's medical condition in this case is not work-related, no explanation as to that conclusion was provided. The claimant has provided some plausible explanation as to why the medical condition appears to be work related. The administrative law judge notes that the findings and conclusions in this matter are not binding on any other legal proceedings or actions involving these parties and these same facts, specifically including any proceedings involving workers' compensation determinations. Iowa Code § 96.6-4. Therefore, it is not outside the realm of possibility that subsequent workers' compensation litigation might produce additional medical testimony which would be sufficient to result in a conclusion that the injury was not work related. While the administrative law judge concludes that for the purpose of the claimant's eligibility for unemployment insurance benefits the medical condition is work-related, this conclusion has no effect on any determination regarding the claimant's possible workers' compensation eligibility.

The administrative law judge concludes that the claimant was at least partially unemployed due to determinations within the employer's control for the benefit weeks of March 1, March 8, and April 26, 2014, and benefits are allowed, if the claimant is otherwise eligible.

**DECISION:**

The representative's March 23, 2014 (reference 01) is modified in favor of the claimant. The claimant was not employed at his regular hours and wages although he was sufficiently able and available for work the weeks of March 1, March 8, and April 26, 2014. Benefits are allowed for those weeks, if the claimant 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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