

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

PATRICK S BRADY
302 S 9TH
EDDYVILLE IA 52553

EPCO CARBON DIOXIDE PRODUCTS
PO BOX 7887
MONROE LA 71211-7887

Appeal Number: 04A-UI-03212-AT
OC: 02/15/04 R: 03
Claimant: Appellant (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Eligibility for benefits

STATEMENT OF THE CASE:

Patrick S. Brady filed a timely appeal from an unemployment insurance decision dated March 17, 2004 reference 03, which denied benefits to him upon a finding that he was medically unable to work. After due notice was issued, a telephone hearing was held on May 4, 2004 with Mr. Brady participating and presenting additional testimony by Terrance Brady. Midwest Transportation Manager Michelle Nobles participated for the employer, EPCO Carbon Dioxide Products. Exhibit A was admitted into evidence.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Patrick S. Brady is employed as an over-the-road truck driver by EPCO Carbon Dioxide Products. He is presently not working while he is being treated for central serious retinopathy of his left eye. He has been released by his treating physician but has not returned to the employer because he is awaiting corrective lenses which will allow him to drive. Mr. Brady has prior work experience in retail and restaurant management. At all times since filing his claim for benefits effective February 15, 2004, he has been medically able to work in those positions.

Beginning April 8, 2004, Mr. Brady has been participating in a mandatory outpatient program for alcoholism. The program will end on or about May 15, 2004.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that Mr. Brady meets the eligibility requirements of being medically able to work and available for work. The administrative law judge concludes that he meets those requirements for the period February 15, 2004 through April 3, 2004 but that he does not meet them thereafter.

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 evidence in the record establishes that at all material times there have been jobs which Mr. Brady was medically able to perform and for which he has the requisite job skills. However, the evidence also establishes that since the week of April 4, 2004 he has been participating in a mandatory out-patient alcoholism program. Because of this he is not available for work. To reestablish eligibility, Mr. Brady must provide to the Agency documentation of successful completion of the alcoholism treatment program.

DECISION:

The unemployment insurance decision dated March 17, 2004, reference 03, is modified. Benefits are allowed from February 15, 2004 through April 3, 2004. They are withheld thereafter until Mr. Brady provides documentation of successful completion of the outpatient alcoholism treatment program.

kjf/b