

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DON L CARROLL
Claimant

APPEAL NO. 13A-UI-04100-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DECKER TRUCK LINE INC
Employer

OC: 03/03/13
Claimant: Appellant (2)

Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 29, 2013, reference 01, that concluded he was not able to work. A telephone hearing was held on May 10, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Brenda McNealey participated in the hearing on behalf of the employer with a witness, Andrea Kloberdand. Exhibit A was admitted into evidence at the hearing.

ISSUE:

Was the claimant able to and available for work?

FINDINGS OF FACT:

The claimant worked for the employer as a truck driver and trainer from April 20, 2011 to February 14, 2013. He experienced chest pain on February 15, which required him to be hospitalized until February 16. He underwent a successful coronary angioplasty procedure on February 15, which did not require any stint. His cardiologist excused him from working until February 25. As of February 25, his cardiologist released him to return to work as a truck driver without restrictions.

The claimant was informed by the employer that he would be required to wait three months before returning to work based on the opinion of the employer's occupational physician. The claimant was required to submit a request for leave under Family and Medical Leave Act (FMLA) to maintain his employment with the employer and to return to work after the three months ended.

The claimant filed a claim for unemployment insurance benefits effective March 3, 2013. He has not filed any weekly claims.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work as required by the unemployment insurance law in Iowa Code § 96.4-3.

The claimant was released to return to work by his treating cardiologist without restriction effective February 25, 2012, after a successful angioplasty. This is consistent with the Federal Motor Carrier Safety Administration, Cardiovascular Advisory Panel Guidelines that state that for percutaneous coronary intervention (PCI), which encompass angioplasty and other catheter-based techniques aimed at relieving coronary obstructions, "In the setting of an uncomplicated, elective procedure to treat stable angina, the post-procedure waiting period is one week.... Drivers undergoing PCI in the setting of an acute myocardial infarction or unstable angina should be restricted from driving duties for the longer waiting period recommended for these conditions. http://nrcme.fmcsa.dot.gov/mehandbook/cvs_chd4_pci_tx_ep.aspx#. The employer's doctor who restricted the claimant from driving is not a cardiologist and never treated or examined the claimant. He was able to work effective February 25 and afterward. While a claimant who request and is granted a leave of absence is considered unavailable for work under 871 IAC 24.23(10), the claimant was required by the employer to submit the request to maintain his employment. He was not voluntarily unemployed, and therefore, 871 IAC 24.23(10) does not disqualify the claimant.

For some reason, the claimant has not filed weekly claims for benefits. If he wishes to receive benefits while he was unemployed, he is required to contact the agency and request retroactive benefits.

DECISION:

The unemployment insurance decision dated March 29, 2013, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/tll