

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**WILLIAM G LANE**  
Claimant

**CRST VAN EXPEDITED INC**  
Employer

**APPEAL 18A-UI-03192-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/07/18  
Claimant: Appellant (1R)**

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Iowa Code §96.4(3) - Able and Available

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 27, 2018, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 4, 2018. Claimant participated. Employer participated through Stephanie Winters, Human Resources Specialist.

**ISSUES:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has been an over-the-road truck driver for most of his adult life. For the last four years he has worked for CRST Van Expedited. He was not able to pass his most recent DOT physical because his A1C was 13. DOT regulations prohibit anyone from obtaining a medical certificate to maintain a CDL who has an A1C level above 10. The claimant's diabetes is a personal, not a work related condition. No evidence indicates that claimant's work contributed to his diabetes and his high A1C as the claimant was able to pick and choose what he ate and when he ate it.

The claimant notified the employer in early December 2017 that he was not medically able to work. The claimant was given FMLA paperwork to complete to protect his job while he was off work. The claimant did not complete the paperwork and he has now been separated from this employer. No fact-finding interview has been held on his separation from employment.

As of the date of the hearing, the claimant had not yet obtained certification that he is medically able to drive pursuant to DOT regulations.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is not able to and available for work.

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".

Iowa Admin. Code r. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a physician and has not been released as being able to work.

Inasmuch as the medical condition was not work-related and the treating physician has not released the claimant to return to work with or without restriction, the claimant has not established his ability to work for this employer. Employer is not obligated to accommodate a non-work related medical condition, thus since claimant was not released to perform his regular work duties, he was not considered able to or available for work effective January 7, 2018. Benefits are denied.

**REMAND:**

The issue of claimant's separation of employment is remanded to the UISC for an initial review and determination.

**DECISION:**

The representative's decision dated February 27, 2018, (reference 01) is affirmed. The claimant is not able to work and available for work effective January 7, 2018. Benefits are denied effective January 7, 2018.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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