

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TERRY L WYLLIE**  
Claimant

**HAWKINS INDUSTRIES INC**  
Employer

**APPEAL 21A-UI-09324-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**  
**Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant/appellant, Terry L. Wyllie, filed an appeal from the March 23, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits effective June 7, 2020. The parties were properly notified about the hearing. A telephone hearing was held on June 17, 2021. The claimant did not attend the hearing personally, but was represented by Stuart Cochrane, attorney at law. Elizabeth Murphy, power of attorney and daughter of claimant, testified on claimant’s behalf. The employer, Hawkins Industries Inc., did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records. Claimant Exhibit A was admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant able to and available for work effective June 7, 2020?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The undisputed evidence is that Mr. Wyllie was a truck driver for this employer, who last performed work on March 6, 2020. At that time, he informed his daughter, Ms. Murphy, that he had been laid off from work. To the best of Ms. Murphy’s knowledge, Mr. Wyllie was not recalled to work.

Mr. Whyllie made unemployment insurance claims each week between June 7, 2020 and August 1, 2020. During this time, claimant had no medical restrictions and did not refuse to perform any work. He did communicate primarily through text message rather than speaking, but was able to otherwise perform work.

In February 2021, Mr. Whyllie suffered from a stroke and cannot speak or communicate. Ms. Murphy serves now as his power of attorney.

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

For the reasons that follow, the administrative law judge concludes the claimant was able to and available for work effective June 7, 2020 through August 1, 2020.

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 96.1A, subsection 38, paragraph "b", subparagraph (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".

For an individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that he is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

The undisputed evidence, presented through claimant's representative is that claimant last worked for this employer on March 6, 2020 when he was laid off as a truck driver. During the period of June 7, 2020 through August 1, 2020, claimant was able to perform work but was laid off due to a lack of work.

Claimant had no medical restrictions at the time and did not refuse a recall to return to work. Accordingly, the administrative law judge concludes claimant was able to and available for work June 7, 2020 through August 1, 2020, and benefits are allowed, provided he is otherwise eligible.

**DECISION:**

The March 23, 2021 (reference 01) initial decision is reversed. The claimant was able to and available for work June 7, 2020 through August 1, 2020, and benefits are allowed, provided he is otherwise eligible.



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Jennifer L. Beckman  
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June 30, 2021  
Decision Dated and Mailed

jlb/scn