

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TERRY D ASKINS
Claimant

APPEAL 16O-UI-13245-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRST VAN EXPEDITED INC
Employer

OC: 10/19/14
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 12, 2014, (reference 02) unemployment insurance decision that denied benefits based upon claimant's ability to work. The parties were properly notified about the hearing. A telephone hearing was held on January 12, 2016. Claimant participated. Employer participated through human resource specialist Kim Bateman.

ISSUE:

Is the claimant able to work and available for work effective October 19, 2014?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on February 21, 2014. Claimant last worked as an over the road driver. On approximately October 11, 2014, claimant was riding as a passenger in a truck that was in an accident. Claimant tore his rotator cuff and injured his leg. Claimant was separated from employment on October 16, 2014.

Since his injury, claimant has been unable to work. Claimant's only work experience is truck driving. Claimant has not been released by any doctor to return to work as a truck driver.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work effective October 19, 2014.

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that the individual is able to work, is available for work, and is earnestly and actively seeking work. Iowa Code § 96.4(3).

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 medical practitioner and has not been released as being able to work.

Inasmuch as the treating physician has not released the claimant to return to work, he has not established his ability to work.

DECISION:

The November 12, 2014, (reference 02) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective October 19, 2014. Benefits are withheld until such time as the claimant obtains a full medical release to return to work.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/