

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

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CLARKSVILLE IA 50619

PETERSON CONTRACTORS INC  
BOX A  
REINBECK IA 50669-0155

Appeal Number: 04A-UI-01131-SWT  
OC 12/14/03 R 03  
Claimant: Appellant (1)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 20, 2004, reference 03, that concluded he was not available for work. A telephone hearing was held on February 25, 2004. The parties were properly notified about the hearing. The claimant participated in the hearing. Mark Peterson participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked for the employer as a truck driver from April 2001 to April 2003. The claimant was informed and understood when he was hired that he would be working at different locations in Iowa. No guarantees were given to him that he would only be required to work within a certain distance from his home. It was normal for the claimant to work sometimes as much as 200 miles from home.

The claimant suffers from a congenital disease affecting his liver. As a result, the claimant has been advised by his doctor to limit travel to within about 60 miles of his home. The employer has had work available for the claimant within his normal commuting distance but the claimant has not been available for that work because of the restrictions on the distance that he can travel.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as defined by the unemployment insurance law in Iowa Code Section 96.4-3.

871 IAC 24.23(18) provides:

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

(18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

Pursuant to this rule, the claimant is considered unavailable for work. The claimant is disqualified effective December 14, 2003, and continuing until he reapplies for benefits and establishes that he is available for suitable work.

#### DECISION:

The unemployment insurance decision dated January 20, 2004, reference 03, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he reapplied for benefits and shows he is available for work.

saw/kjf