

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**JAMES G MATSON**  
Claimant

**APPEAL NO: 18A-UI-02418-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**5 STAR PLUMBING INC**  
Employer

**OC: 01/14/18  
Claimant: Appellant (2-R)**

Section 96.4-3 – Able and Available for Work  
Section 96.4-3 – Same Hours and Wages

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the February 14, 2018, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 20, 2018. The claimant participated in the hearing. Lori Siebenmann, Human Resources Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a full-time fourth year plumbing apprentice for 5 Star Plumbing Inc. May 27, 2014. He is required by the State to attend apprentice classes at Kirkwood College in order to maintain his apprenticeship. He attended class from January 8 through January 13, 2018.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was not employed at the same hours and wages as contemplated in the original contract of hire the week ending January 13, 2018.

Iowa Code § 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. 871-24.23(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant was not employed at the same hours and wages as contemplated in the original contract of hire the week ending January 13, 2018, because he was required to attend an apprentice class that week. The claimant is enrolled in Department Approved Training and is not required to be able and available for work during that time. Under these circumstances, the administrative law judge finds the claimant is eligible for benefits the week ending January 13, 2018.

The issue of whether the claimant is eligible for retroactive benefits is remanded to the Claims Bureau for an initial hearing and adjudication.

**DECISION:**

The February 14, 2018, reference 01, decision is reversed. The claimant was not employed at the same hours and wages as in his original contract of hire and therefore is qualified for benefits the week ending January 13, 2018. The issue of whether the claimant is eligible for retroactive benefits is remanded to the Claims Bureau.

---

Julie Elder  
Administrative Law Judge

---

Decision Dated and Mailed

je/scn