

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DOMINIC C LAGHEEZA
Claimant

THE WALDINGER COPORATION
Employer

APPEAL 21A-UI-09860-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/28/21
Claimant: Appellant (2)**

Iowa Code § 96.4(3) –Able and Available
Iowa Administrative Rule 871-24.2(1) (c) (3) (5)

STATEMENT OF THE CASE:

On April 3, 2021, the Claimant filed an appeal from the March 26, 2021, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 23, 2021. Claimant Dominic Lagheeza participated. John Quino, Union Representative –Sheet Metal Workers Local 45, participated as a witness on behalf of the claimant. The employer did not register or participate in the hearing. Official notice was taken of the administrative record.

ISSUE:

Was the claimant able and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is a member of Sheet Metal Workers Local 45 and was employed by Waldinger Corporation, Des Moines, Iowa. On January 27, 2021, the Claimant was notified by his employer that he was being laid off due to a temporary reduction in force based on business needs. John Quijino, Union Representative, testified that the claimant was able and available for work during the weeks he was unemployed and that he contacted the Union on a weekly basis to determine if any work was available. The Claimant resumed working for the employer in April 2021.

REASONING AND CONCLUSIONS OF LAW:

Iowa Administrative Code rule 871-24.2(1) (c) (3) and (6) provides as follows:

c. All claimants on an initial claim shall state that they are registered for work and shall list their principal occupation. The claims taker will then assign a group code to the claimant to control the type of registration that is made. Code assignments will be based on all facts obtained at the time of the claim filing. The group codes are: ...

(3) Group "3" claimants are workers who are employed on a reduced workweek or temporarily unemployed for a period, verified by the department, of four consecutive weeks or less, due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular "employer." This group pertains only to those individuals who worked full-time and will again work full-time if the individual's employment, although temporarily suspended, has not been terminated. After a period of temporary unemployment, claimants in this group are reviewed for placement in group "1," "2," "5" or "6."

(6) Group "5" claimants are those individuals who are members of unions, trades, or professionals having their own placement facilities. Claimants assigned to this group will be registered for work. A paid-up membership must be maintained. Contact must be made weekly to check for available work...

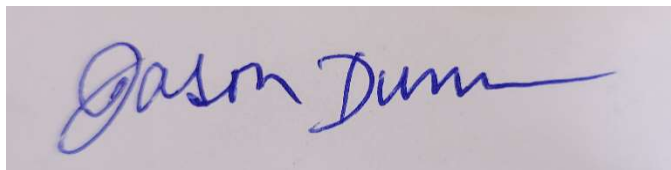
- Iowa Code § 96.4-3 provides: An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that: The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed 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".

The claimant was a Union member in good standing who fulfilled all of the readiness requirements for his Union membership and of Iowa Code §96.4(3).

The claimant is deemed to have been able and available for employment. Benefits are allowed.

DECISION:

The March 26, 2021, (reference 01) is reversed. Benefits are allowed, provided the claimant is otherwise eligible.



Jason Dunn
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Des Moines, Iowa 50319-0209
Fax (515) 478-3528

July 8, 2021
Decision Dated and Mailed

jd/kmj