

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JORDAN P RAMMELSBERG
Claimant

PIPE PRO INC
Employer

APPEAL 19A-UI-06247-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/07/19
Claimant: Respondent (1)**

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(26) – Availability Disqualifications Same Hours and Wages
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

Employer/appellant filed an appeal from the July 31, 2019 (reference 01) unemployment insurance decision that found claimant was able to and available for work effective July 7, 2019. The parties were properly notified of the hearing. A telephone hearing was held on August 29, 2019, at 9:00 a.m. Claimant did not participate. Employer participated through David Huston, President and Owner. Employer's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant was able to work, available for work and actively effective July 7, 2019.
Whether claimant was on an approved leave of absence.
Whether claimant was totally, partially or temporarily unemployed.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Pipe Pro, Inc. on February 28, 2017. Claimant is currently employed full-time as a pipe fitter apprentice. Claimant is employed with Pipe Pro, Inc. through a contract with the Plumbers and Pipefitters Local 125. The employer's contract with the union determines whether claimant is at work or in training. Claimant must attend union-sponsored training to maintain membership in the union; claimant must be a union member to maintain employment with Pipe Pro, Inc. as a pipe fitter apprentice.

Claimant attended union-sponsored training the week of July 7, 2019. Claimant received a stipend from the union for attending training. Claimant did not report any wages or income for the week of July 7, 2019. Claimant returned to work on July 14, 2019 and remains employed by Pipe Pro, Inc.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work for the period in question.

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 96.19, 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 Code section 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Admin. Code r. 871-24.23(10) provides:

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

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

The claimant did not work the week of July 7, 2019 and, therefore, was totally unemployed for that week. Claimant was absent from work to attend union-sponsored training. Because the training is required to maintain membership in the union and union membership is required to maintain employment as a pipe fitter apprentice with Pipe Pro, Inc., the union training was a mandatory condition of claimant's continued employment and cannot be considered a voluntary leave of absence. Claimant's absence was a temporary separation due to scheduled training per the employer's agreement with the union. Therefore, claimant was temporarily laid off due to a lack of work. As such, claimant was able to and available for work the week of July 7, 2019. Benefits are allowed, provided he is otherwise eligible.

DECISION:

The July 31, 2019 (reference 01) unemployment insurance decision is affirmed. The claimant is able to and available for work effective July 7, 2019. Benefits are allowed provided claimant is otherwise eligible.

Adrienne C. Williamson
Administrative Law Judge
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Decision Dated and Mailed

acw/rvs