

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JACOB L HARRIOTT
Claimant

B G BRECKE INC
Employer

APPEAL 19A-UI-02399-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/14/18
Claimant: Respondent (4)**

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:

The employer filed an appeal from the March 14, 2019, (reference 01) unemployment insurance decision that allowed benefits based upon a determination that claimant was on a short-term layoff and was otherwise able to and available for work effective February 24, 2019. The parties were properly notified of the hearing. A telephonic hearing was held on April 4, 2019. The claimant, Jacob L. Harriott, did not register a telephone number at which to be reached and did not participate in the hearing. The employer, B. G. Brecke, Inc., participated through Jeff Huegel, Payroll Administrator. Employer's Exhibits 1 and 2 were received and admitted into the record without objection. The administrative law judge took official notice of the administrative record.

ISSUES:

Is the claimant totally unemployed effective February 24, 2019?
Is the claimant partially unemployed effective February 24, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed full-time, most recently as a plumber/pipefitter apprentice at 55%, for this employer. Claimant began his employment on March 14, 2016. Periodically during his employment, claimant does not work for one week at a time so he can attend training class. This training class is required by the employer and set up through claimant's union. The employer and the union have a collective bargaining agreement under which the employer financially supports the training class by paying the fees. During the week of February 24, 2019, claimant attended his training class full-time. If claimant does not attend the training class, he could be expelled from the union, which would cause him to lose his job with the employer.

The employer explained that the recent changes to the department-approved training program of Iowa Workforce Development have forced them to appeal this and similar decisions.

The administrative record shows that claimant reactivated his unemployment insurance claim on February 24, 2019. Claimant did not file a weekly continued claim to seek unemployment insurance benefits for that week or any subsequent week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the issues are moot.

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 Code § 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 Code section 96.6(1) provides:

96.6 Filing — determination — appeal.

1. *Filing*. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

In order to be eligible for weekly benefits, the claimant must file an online web application continued claim. Iowa Admin. Code r. 871-24.2(1)g. The law no longer allows for an administrative law judge to grant retroactive benefits provided the claimant demonstrates good cause. Generally, courts and administrative tribunals do not decide issues when the underlying controversy is moot. *Rhiner v. State*, 703 N.W.2d 174, 176 (Iowa 2005). “A case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent.” *Iowa Bankers Ass’n v. Iowa Credit Union Dep’t*, 335 N.W.2d 439, 442 (Iowa 1983)

In this case, claimant did not file a weekly continued claim for benefits for the one week in February 2019 that he was in training. As there is no longer any ability under Iowa law to receive retroactive benefits, claimant has missed his opportunity to seek benefits for that one week. Therefore, there is no live case or controversy before the Appeals Bureau. It does not matter whether claimant was available or whether he was partially unemployed during the week he was in training, because he did not seek benefits that week. The issues of whether he was totally or partially unemployed effective February 24, 2019, and whether he was available for work effective February 24, 2019, are moot.

DECISION:

The March 14, 2019, (reference 01) unemployment insurance decision is modified in favor of employer/appellant. The issues of whether he was totally or partially unemployed effective February 24, 2019, and whether he was available for work effective February 24, 2019, are moot.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn