

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

MICHAEL J STONGER
Claimant

APPEAL NO. 19A-UI-04055-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FRANK MILLARD & CO INC
Employer

OC: 10/28/18
Claimant: Respondent (1)

Section 96.4-3 – Able and Available
871 IAC 24.1(113)a – Separations From Employment
Section 96.5-1 – Voluntary Leaving - Layoff

STATEMENT OF THE CASE:

Frank Millard & Co (employer) appealed a representative's May 7, 2019, decision (reference 04) that concluded Michael Stonger (claimant) was eligible to receive unemployment insurance benefits as of April 7, 2019. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 12, 2019. The claimant was represented by John Remus, Attorney at Law, and participated personally. The employer was represented by Diana Perry-Lehr, Hearings Representative, and participated by Diana McCannon, Payroll Manager.

ISSUE:

The issue is whether the claimant is able and available for work for the week ending April 13, 2019.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on June 20, 2017, as a full-time tradesman. His supervisor in the sheet metal department approached him and asked if he wanted to start the apprenticeship program. He completed the application and applied the Joint Apprenticeship and Training Committee (JATC), a group consisting of union and employer representatives. The JATC looked at the claimant's application, test scores, and offered him a sheet metal apprenticeship.

The employer and Union Local 91 contribute to a fund so that workers in the apprenticeship program may attend training classes multiple times during the course of the year. The training classes increase the workers' knowledge which, in turn, benefits the employer. By being accepted into the program, the claimant's weekly wages and benefits increase.

The employer was given a calendar of classes the claimant was required to attend. The employer authorized the claimant to attend an apprenticeship training class for the week ending April 13, 2019. This class was required for the claimant to eventually achieve journeyman sheet metal worker status. During that week the employer did not pay the claimant any wages or offer him any work. The claimant filed for unemployment insurance benefits for the week ending April 13, 2019, and received \$460.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was able and available for work for the week ending April 13, 2019.

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 Admin. Code r. 871-24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

During the week ending April 13, 2019, the claimant was suspended from work status for lack of work orders. When an employer suspends a claimant from work status for a period of time, the separation does not prejudice the claimant. The claimant's separation was attributable to a lack of work by the employer. The claimant is considered able and available for work during this period. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's May 7, 2019, decision (reference 04) is reversed. The claimant is considered able and available for work for the week ending April 13, 2019. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs