

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KEGAN A FAHRENKRUG
Claimant

PELLA CORPORATION
Employer

APPEAL 24A-UI-05082-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/21/24
Claimant: Respondent (2)**

Iowa Code § 96.4(3) – Able and Available for Work

Iowa Code § 96.1A(37) – Total, Partial, and Temporary Unemployment

STATEMENT OF THE CASE:

On May 24, 2024, employer filed an appeal from the May 15, 2024 (reference 01) unemployment insurance decision that allowed benefits effective April 21, determining claimant was on a short-term layoff and was available for work. The Unemployment Insurance Appeals Bureau mailed notice of the hearing on May 30, 2024. Administrative Law Judge Elizabeth A. Johnson held a telephonic hearing at 8:00 a.m. on Thursday, June 13, 2024. Claimant Kegan A. Fahrenkrug did not appear or participate. Employer Pella Corporation participated through Amber Kelley, HR Manager. Employer's Exhibit 1 was received and admitted into the record. The administrative law judge took official notice of the administrative record to review claimant's claim records in the mainframe system, including his claim date, the weeks he filed for benefits, the wages he reported receiving (if any), and the benefits he received.

ISSUE:

Effective April 21, 2024, is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant Kegan Fahrenkrug began employment with Pella Corporation on September 13, 2021. He works full-time hours as an assembler 3; he is still employed with the employer. Claimant works a "regular" workweek, working 40 hours Monday through Friday.

During the week of April 14, claimant's manager announced the employer would be shutting down the line claimant worked on the following week in order to move that line. The manager explained that the team's regular work would not be available the following week, but the employer would find work for people who wanted to be working. The employer operates a manufacturing facility, and they cross-train employees to do a variety of jobs in addition to their "normal" position for circumstances like periodic shut-downs.

Claimant declined the opportunity to work during the week of April 21, 2024. During the fact-finding interview, he indicated he was testing his luck by taking the week off instead of working. (Kelley testimony) Instead of working, claimant took five hours of vacation and then took the remaining thirty-five hours of the week unpaid. Claimant was rated a "superior"

employee and the employer had work available for him had he opted to work instead of stay home that week. Claimant filed one weekly claim for benefits, for the week ending April 27, 2024. He reported \$123.00 in vacation pay that week and received a reduced weekly benefit amount.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was voluntarily totally unemployed for the one week ending April 27 2024. Benefits for that week are denied.

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 96.1A, subsection 37", paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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 § 96.1A(37) 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 provides in relevant subparts:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

(18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

Under Iowa Employment Security Law, an individual must first be totally, partially, or temporarily unemployed to be eligible for benefits. Iowa Code § 96.1A(37). Total unemployment is when someone has received no wages and performed no services during any given week. *Id.* In this case, the claimant performed no services and received no wages during the sole week that he filed for benefits. He was totally unemployed for that week.

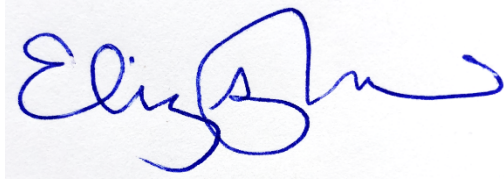
However, once claimant has shown he was totally unemployed for one week, he must now establish that he was temporarily unemployed or that he was able to work and available for work. Claimant cannot satisfy either set of requirements.

Under Iowa Code section 96.1A(37)(c), a temporarily unemployed individual is unemployed due to a lack of work from their regular, full-time employer. Here, claimant was not unemployed due to a lack of work. The employer had work available for him using the skills and experience he acquired through cross-training in his years as an employee. Claimant is not temporarily unemployed.

Under 871—24.23(18), an individual is not available for work when that individual is only willing to work in one specific area although work is available in other areas where the individual is expected to make themselves available. This subrule squarely aligns with the facts of this case. Claimant was only willing to work as an assembler on his specific line. However, he had been cross-trained in multiple areas and the employer had work available for him throughout the plant during the week his regular line was shut down. Claimant chose not to perform that work and voluntarily took himself out of the workforce for that week. An individual who chooses unemployment instead of gainful work is not eligible for benefits. Benefits must be withheld.

DECISION:

The May 15, 2024 (reference 01) unemployment insurance decision is reversed. Claimant was not able to and available for work effective April 21, 2024. Benefits must be withheld.



Elizabeth A. Johnson
Administrative Law Judge

June 14, 2024
Decision Dated and Mailed

lj/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.