

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL A GARCIA**  
Claimant

**APPEAL NO: 12A-UI-03540-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TRI CITY ELECTRIC CO OF IOWA**  
Employer

**OC: 12/25/11  
Claimant: Appellant (4)**

Section 96.4-3 – Able and Available  
871 IAC 24.23(1) – Unable to Work/Non-Job-Related Illness  
871 IAC 24.1(113)a – Layoff

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated April 2, 2012, reference 02, that held he voluntarily quit employment due to a non-work-related illness on February 20, 2012, and which denied benefits. A telephone hearing was scheduled for and held on May 11, 2012. The claimant participated. Sherry Rodriguez, HR director, participated for the employer. Claimant Exhibits A through D were received as evidence.

**ISSUES:**

Whether the claimant is able and available to work.

Whether claimant was laid off from work.

**FINDINGS OF FACT:**

The administrative law judge, having considered the witness testimony and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time electrician through his local union from December 12, 2011 to February 20, 2012. He became ill after working two hours and left work. He was treated the same day by a doctor for an adverse medication reaction, but he was released without restriction to return to work on February 27.

The claimant provided his union business agent with the doctor release and he understood his agent advised the project manager. The employer project manager immediately replaced claimant because it needed someone to do the work, and it believed claimant might be off work for an indefinite period.

Later, the union business agent requested the employer provide claimant with a layoff slip. The employer provided the layoff slip effective March 9, 2012 and provided it to the union. The employer does not dispute the claimant's layoff and right to unemployment on and after March 9.

Although claimant is attending a trade school in Oklahoma beginning April 16, he maintains contact with his local union about his right to bid on jobs on a day-to-day basis. His recent job bid was turned down due to worker numbers who were available. He is willing to leave school for suitable work.

### **REASONING AND CONCLUSIONS OF LAW:**

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".

871 IAC 24.23(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

871 IAC 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.

The administrative law judge concludes that the claimant voluntarily left employment on February 20, 2012 due to a non-job-related medical condition that made him temporarily unavailable for work. After a period of unavailability, he was laid off by the employer effective March 9, 2012.

Although claimant was released to return to work without restriction on February 27, his business agent had led the employer to believe the leave period was indefinite, which caused it to replace him. As soon as the union corrected its error by requesting a layoff slip, the employer complied by providing it effective March 9. This employment separation is for no disqualifiable reason and allows claimant benefits on and after this date.

Claimant is bound by the actions of his agent/union that led to the misunderstanding about the length of the anticipated absence length, which caused the employer to replace him. The employer project manager had every reason to believe, based on union agent information, claimant would be off work for an extended period (indefinite). When the union agent corrected the employment separation situation, the employer was willing to give claimant a layoff slip effective March 9, which is something done in good faith to maintain a good working relationship between business and union.

The administrative law judge further concludes claimant is able and available for work and no benefit disqualification is imposed. Claimant cleared his health condition issue with his release to return to work without restriction effective February 27. Since he remains in contact with his union while attending school, he is ready willing and able to accept suitable employment.

**DECISION:**

The department decision dated April 2, 2012, reference 02, is modified in favor of claimant. Claimant voluntarily left employment on February 20, 2012 due to a temporary health condition that made him unavailable for work. He became able and available for work but was laid off effective March 9, 2012. Benefits are denied from the effective date of claim to March 9, and then claimant is entitled to receive benefits, provided he is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw