

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DILLON DILTZ
Claimant

APPEAL 19A-UI-02442-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINGER CONTRACTING CO
Employer

**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:

On March 20, 2019, the employer filed an appeal from the March 18, 2019, (reference 03) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 23, 2019. Claimant did not participate. Employer participated through attorney Patrick Curran and witness Mandy Thrasher. Official notice was taken of the administrative record, specifically, the fact-finding documents and claimant's weekly continued claim records.

ISSUES:

Is the claimant totally unemployed effective March 10, 2019?
Is the claimant partially unemployed effective March 10, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was hired June 7, 2018. Claimant is employed as a full-time pipefitter apprentice. Periodically during his employment, claimant does not work for one week at a time so he can attend training class, as required by his union. This training class is required by and set up through claimant's union. The class is not required by the employer, but the employer pays a monthly fee to the union to cover the cost of the training. Claimant's employment with the employer is not dependent on his union membership. During the week of March 10, 2019, claimant attended his training class full-time. The employer believes claimant was given a \$200.00 stipend by the union to attend the training. Work was available with the employer during the week of March 10, 2019.

The administrative record shows that claimant reactivated his unemployment insurance claim on March 10, 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 March 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 March 10, 2019, and whether he was available for work effective March 10, 2019, are moot.

DECISION:

The March 18, 2019, (reference 03) unemployment insurance decision is modified in favor of employer/appellant. The issues of whether he was totally or partially unemployed effective March 10, 2019, and whether he was available for work effective March 10, 2019, are moot.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs