

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

**MICHAEL K PRIEBE**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 24A-UI-01786-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/10/23  
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able and Available/Work Search  
Iowa Admin. Code r. 871-24.22(3) – Earnest and Active Search for Work

**STATEMENT OF THE CASE:**

On February 14, 2024, claimant Michael K. Priebe filed an appeal from the February 7, 2024, (reference 04), unemployment insurance decision that advised the claimant they were no longer considered temporarily unemployed and warned the claimant they must begin making a minimum of four employment contacts each week. The Unemployment Insurance Appeals Bureau mailed notice of the hearing on February 16, 2024. Administrative Law Judge Elizabeth A. Johnson held a telephonic hearing at 10:00 a.m. on Tuesday, February 27, 2024. Claimant Michael K. Priebe personally participated. No exhibits were offered or admitted. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Is the claimant totally, partially, or temporarily unemployed?  
Is the claimant able to and available for work?  
Is the claimant required to begin making reemployment contacts?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed with A+ Lawn and Landscape. He works full-time hours during the summer performing landscaping responsibilities. Effective December 10, 2023, the claimant opened a claim for unemployment insurance benefits due to a temporary, seasonal layoff from employment. Claimant is categorized in group code 3 for purposes of employment contacts.

Claimant remains on call with the employer throughout the winter months. The employer clears snow in the winter (weather permitting), and claimant is required to remain available for the employer throughout the winter in case he is needed for snow removal duties. If he wants to take time off work, he may submit a leave request. However, the employer will deny this request if it snows and the employer needs him to work.

Claimant has filed continued weekly claims during his claim year as follows:

Benefit Week End	Did You Work?	Wages Reported	Benefits Received
1/6/24	No	0	\$582
1/13/24	Yes	\$503	\$224
1/20/24	Yes	\$219	\$508
1/27/24	No	0	\$582
2/3/24	No	0	\$582
2/10/24	No	0	\$582
2/17/24	Yes	\$122	\$582
2/24/24	No	0	\$582

### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant is not required to make reemployment contacts on a weekly basis.

Iowa Code section 96.4(3) provides (emphasis added):

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".

(b) Notwithstanding any provision of this chapter to the contrary, the department may establish by rule a process to waive or alter the work search requirements of this subsection for a claim for benefits if an individual has a reasonable expectation that the individual will be returning to employment and is attached to a regular job or industry... To be considered attached to a regular job or industry, an individual must be on a short-term temporary layoff.

Iowa Code section 96.1A(37) provides (emphasis added):

"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.

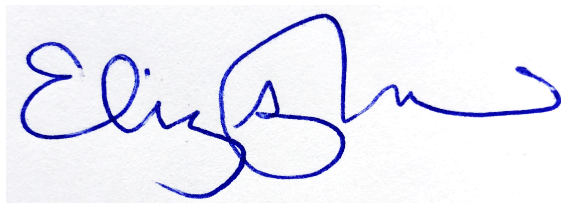
**c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.**

Claimant was laid off and opened a claim for benefits effective December 10, 2023 due to a seasonal decline in work. He continues to maintain a relationship with his full-time employer, remaining on call and working whenever the employer has work available for him. The evidence shows claimant has been temporarily totally unemployed due to a seasonal lack of work or he has been partially unemployed. Because claimant's total unemployment has not lasted longer than four consecutive weeks in length, he is not required to complete work searches.

**DECISION:**

The February 7, 2024, (reference 04) unemployment insurance decision is reversed. The claimant is not yet required to begin making employment contacts. Therefore, the notice issued was not appropriate and must be removed.

Should claimant have a period of total unemployment lasting longer than four consecutive weeks, he will be required to conduct reemployment activities beginning with his fifth week of total unemployment.



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Elizabeth A. Johnson  
Administrative Law Judge

February 29, 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:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://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:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://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.