

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEREK J BAKER

Claimant

APPEAL NO. 13A-UI-02339-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KLEIMAN CONSTRUCTION INC

Employer

OC: 04/15/12

Claimant: Respondent (1)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The employer, Kleiman Construction, Inc. (Kleiman), filed an appeal from a decision dated February 21, 2013, reference 03. The decision allowed benefits to the claimant, Derek Baker. After due notice was issued, a hearing was held by telephone conference call on March 26, 2013. The claimant participated on his own behalf and with Bob Herndon. The employer participated by Office Manager Cindi Ferring.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Derek Baker began employment with Kleiman Construction on July 30, 2012 as a full-time apprentice operating engineer. He was off work for three weeks from January 7 through 27, 2013, to take required training. The training is required by the department of labor in order for apprentices to qualify as journeymen. He returned to work after the training on January 28, 2013..

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".

The claimant was gone for three weeks in order to obtain the training required by law and provisions of the collective bargaining unit. It was work-related training which the administrative law judge considers to be the same as working for the employer. He is able and available for his regular employer.

DECISION:

The representative's decision of February 21, 2013, reference 03, is affirmed. Derek Baker is eligible for benefits, provided he is otherwise qualified.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css