

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ASHLEY N WICKIZER
Claimant

BAKER ELECTRIC INC
Employer

APPEAL NO. 21A-UI-14271-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/10/21
Claimant: Appellant (1)**

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.7(2)A(2) – Partial Benefits
Iowa Code § 96.19(38) – Total and Partial Unemployment

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 11, 2021, reference 02, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on July 30, 2021. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

ISSUES:

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

FINDINGS OF FACT:

The claimant currently works for Baker Electric, a base period employer, full time under the same terms and conditions as contemplated in the original contract of hire. Claimant was hired through the local electrical workers' union as an apprentice electrician.

Claimant became a part of the local union as an apprentice prior to her hire by Baker. As a part of her contract with the union, and the only way claimant can become a journeyman electrician, she has to complete six weeks of training a year. During this time claimant does not work, and instead attends classes. Employer knew of these class requirements at the time claimant was hired.

For the week ending April 3, 2021 claimant missed work attending classes. Employer had ongoing work available for claimant as other journeyman electricians continued to work while claimant was at classes. While she was at classes, she could not attend work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not temporarily unemployed.

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".

Iowa Code section 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.

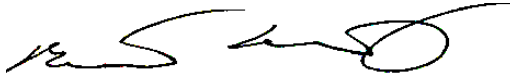
(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

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.

Because the claimant's circumstances of attending classes for the week ending April 3, 2021 does not fit in to any of the allowances for temporary unemployment, claimant is not deemed to be temporarily unemployed. As claimant must attend the classes and not work during this period, she is not able and available to work. Benefits are denied.

DECISION:

The June 11, 2021, reference 02, decision is affirmed. The claimant is not temporarily unemployed for the week ending April 3, 2020 and benefits are denied.



Blair A. Bennett
Administrative Law Judge

August 4, 2021
Decision Dated and Mailed

bab/scn