

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TOM GREENE
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 22A-UI-07494-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/28/21
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able & Available
Iowa Code § 96.1A(37) – Total, Partial, Temporary Unemployment

STATEMENT OF THE CASE:

On March 17, 2022, Tom Greene (claimant/appellant) filed an appeal from the March 9, 2022, reference 02, unemployment insurance decision that concluded he was no longer temporarily unemployed and he must begin actively engaging in re-employment activities. A telephone hearing was held at on March 10, 2022 pursuant to due notice. The claimant, Tom Greene, participated and testified. The administrative law judge took official notice of the administrative record.

ISSUE:

Is the claimant temporarily unemployed and required to engage in re-employment activities as directed by IWD?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant filed a claim for unemployment insurance benefits with an effective date of November 28, 2021. The claimant has worked for the City of Dubuque for the past twenty years. The claimant is discharged at the end of each season and reapplies for his job every February. Claimant is not considered temporarily unemployed based on his seasonal termination from his employer. The claimant's group code is Group Code 6.

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. a. 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 or a member in good standing of a union therein eligible for referral for employment. To be considered attached to a regular job or industry, an individual must be on a short-term temporary layoff. If work is not available at the conclusion of the layoff period due to short-term circumstances beyond the employer's control, the employer may request an extension of the waiver or alteration for up to two weeks from the department. For purposes of this paragraph, "short-term temporary layoff" means a layoff period of sixteen weeks or less due to seasonal weather conditions that impact the ability to perform work related to highway construction, repair, or maintenance with a specific return-to-work date verified by the employer.

Iowa Code section 96.1A(37) provides:

Totally unemployed", "partially unemployed", and "temporarily unemployed.

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.

The claimant is considered on a seasonal lay-off due to the employer's practice of terminating each of their seasonal workers at the end of each season. The claimant is considered totally unemployed and is required to engage in the required re-employment activities as directed by IWD. The claimant's Group Code 6 is the correct Group Code for the claimant.

DECISION:

The March 9, 2022, reference 02, unemployment insurance decision is affirmed. The claimant is no longer temporarily unemployed and is required to engage in re-employment activities as directed by IWD.



Jason Dunn
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May 31, 2022
Decision Dated and Mailed

jd/kmj