

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MATTHEW A PARKS
Claimant

TRI CITY ELECTRIC CO OF IOWA
Employer

APPEAL 21A-UI-05115-AD-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 05/31/20
Claimant: Appellant (3)

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Code § 96.19(38) – Total, partial unemployment

STATEMENT OF THE CASE:

On February 12, 2021, Matthew Parks (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated February 9, 2021 (reference 02) that denied benefits as of October 25, 2020 based on a finding claimant was working enough hours to be considered employed.

A telephone hearing was held on April 19, 2021. The parties were properly notified of the hearing. Claimant participated personally. Tri City Electric Co of Iowa (employer/respondent) participated by HR & Safety Coordinator Nicole Leyendecker.

Official notice was taken of the administrative record.

ISSUE(S):

- I.
- II. Is the claimant able to and available for work?
- III. Is the claimant totally, partially, or temporarily unemployed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer on August 6, 2019. Claimant was employed full-time as an apprentice beginning in June 2020. Claimant separated from employer on January 22, 2021.

Claimant filed a weekly claim for benefits in the weeks ending June 6, August 22, August 29, and September 5, 2020. He also filed weekly claims for the weeks ending February 20, February 27, and March 6, 2021.

Claimant was held out of work due to potential COVID-19 exposure for part of the week ending June 6, 2020. Claimant was not too ill to work or unavailable for work during that time. Claimant worked a total of 18 hours that week. He was not paid wages for the time out of work.

Claimant did not perform any work in the week ending August 22, 2020. This was due to union training. Claimant knew at the time he entered the apprenticeship program that he would be required to attend the trainings and that the employer would not pay him for the training.

Claimant worked 40 hours in the week ending August 29, 2020 and 32 hours in the week ending September 5, 2020. Claimant worked fewer hours in that second week due to taking a personal day off.

The administrative law judge notes a decision was issued March 29, 2021 finding claimant disqualified from benefits from the date of discharge, January 21, 2021. That matter is not before the undersigned and so is not addressed in this decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated February 9, 2021 (reference 02) that denied benefits as of October 25, 2020 based on a finding claimant was working enough hours to be considered employed is MODIFIED in favor of respondent. Benefits are allowed as set forth below.

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.

The administrative law judge finds claimant was partially unemployed in the week ending June 6, 2020. This is because claimant was held out of work for part of this week due to potential exposure to COVID-19. Claimant was not unable or unavailable to work during this time.

Claimant is not eligible for benefits in the week ending August 22, 2020. This is because claimant was not working due to union training, which he knew he would be required to attend as part of the job and that employer would not pay him for. Claimant was unavailable for work during the training and so ineligible for benefits.

Claimant is also ineligible for benefits in the weeks ending August 29 and September 5, 2020, as he was working to such an extent as to be unavailable for work and any decrease in hours was due to a decision to take a personal day off.

A decision issued March 29, 2021 found claimant disqualified from benefits from the date of discharge, January 21, 2021. That decision remains in force. Because claimant was disqualified from benefits from January 21, 2021, the issues of whether claimant was able to and available for work and was totally, partially, or temporarily unemployed in the weeks ending February 20, February 27, and March 6, 2021 need not be addressed, and the administrative law judge makes no finding as those issues.

DECISION:

The decision dated February 9, 2021 (reference 02) that denied benefits as of October 25, 2020 based on a finding claimant was working enough hours to be considered employed is MODIFIED in favor of respondent. Benefits are allowed as set forth above.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

April 22, 2021
Decision Dated and Mailed

abd/scn

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.