

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

TERRANCE L QUAM
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 23A-UI-01505-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/20/22
Claimant: Appellant (1)**

Iowa Code § 96.1A(37) – Total, Partial, and Temporary Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(3) – Work Search Requirements

STATEMENT OF THE CASE:

On February 14, 2023, claimant Terrance L. Quam filed an appeal from the February 7, 2023 (reference 02) unemployment insurance decision that determined claimant was no longer temporarily unemployed and must begin searching for work. The parties were properly notified of the hearing. A telephonic hearing was held at 10:00 a.m. on Friday, March 3, 2023. Appeal numbers 23A-UI-01505-LJ-T and 23A-UI-01878-LJ-T were heard together and created one record. Claimant Terrance L. Quam personally participated in the hearing. Iowa Workforce Development did not appear or participate. No exhibits were admitted into the record.

ISSUES:

Is the claimant totally, partially, or temporarily unemployed?
Is the claimant required to engage in re-employment activities?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is a full-time equipment operator employed by Quam Trucking LLC, based in Waterloo Iowa. Quam Trucking LLC is a road construction company that performs both local and highway projects. Claimant opened his claim for unemployment insurance benefits with an effective date of November 20, 2022, when he was laid off due to a lack of work at the end of the road construction season.

Quam Trucking LLC had a seasonal layoff at the end of November when the weather became too cold to perform work outdoors. Claimant was laid off approximately one week earlier than the rest of his coworkers because his machine broke and the parts to repair it would not be available until late December 2022. Claimant holds his commercial driver's license ("CDL"). While he does not drive the employer's vehicles on a daily basis, he uses his CDL in his position.

Claimant has not conducted any work searches since his layoff began, as Iowa Workforce Development representatives told him when he opened his claim that he would not be required to perform re-employment activities or search for work during his layoff. Claimant called on January 19, 2023, and he was told “nothing has changed” regarding the work search requirement. Next, he received the decision dated February 7, 2023, stating he was required to seek work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is no longer temporarily unemployed, and he does not meet the specific requirements to qualify for the exception to making work searches. Effective December 18, 2022, claimant was required to begin searching for work.

In order for an individual to be eligible for and receive unemployment insurance benefits, they must be able to work, available for work, and actively and earnestly seeking work.¹ “The individual bears the burden of establishing that [they are] able to work, available for work, and actively and earnestly seeking work.”²

In 2022, Iowa added two *temporary* exceptions to the requirement that individuals actively and earnestly seek work.³ These exceptions only apply to an individual who is attached to a regular job or industry and who otherwise qualifies for unemployment insurance benefits.⁴ The first exception, in subsection (c)(2), applies to high-skilled workers, while the second exception applies to workers *other than* high-skilled workers.⁵ Both of these exceptions require that an individual be on a “layoff period of 16 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,” which they define as a “short-term temporary layoff.”⁶

The first exception, for the high-skilled workers, waives the requirement that the individual make any re-employment contacts or apply for any jobs for up to the full 16 weeks of the temporary seasonal layoff period.⁷ The second exception, for all other workers, waives the re-employment contacts requirement for the first eight weeks of the layoff period.⁸ After those first eight weeks, an individual meeting the requirements of the second exception must make one re-employment contact each week for the following eight weeks of the seasonal layoff period.⁹

Claimant does not meet the requirements of either exception in the administrative rule. While he is on a seasonal layoff from his regular job in the road construction industry, and the company he works for performs highway road construction services, he was not on a short-term layoff with a specific return-to-work date. Rather, he was told he would have employment in the spring, and his employer reached out to him when it was time to return. The requirements of

¹ Iowa Code § 96.4(3).

² Iowa Admin. Code r. 871-24.22. (implementing Iowa Code § 96.4(3)).

³ See Iowa Admin. Code r. 871-24.22(3)(c)(2) and (3).

⁴ *Id.*

⁵ *Id.* “High-skilled worker” is defined in IAC r. 871-24.22(3)(c)(2) as “a worker whose job or position requires licensing, credentials, or specialized training.

⁶ Iowa Admin. Code r. 871-24.22(3)(c)(2)3 and (3)3.

⁷ Iowa Admin. Code r. 871-24.22(3)(c)(2).

⁸ Iowa Admin. Code r. 871-24.22(3)(c)(3).

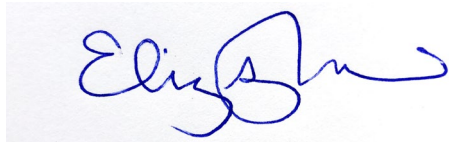
⁹ *Id.*

the exception set forth in the administrative rule are straightforward, and claimant does not meet those requirements. Claimant must begin making work searches.

The administrative law judge notes that, as claimant was not notified prior to February 7, 2023 that he was expected to search for work, claimant cannot be held responsible for failing to make work searches prior to that time.

DECISION:

The February 7, 2023 (reference 02) unemployment insurance decision is affirmed. Claimant is temporarily unemployed and on a seasonal layoff. He is now required to make work searches.



Elizabeth A. Johnson
Administrative Law Judge

March 7, 2023
Decision Dated and Mailed

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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
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: 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**

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.