

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BRANDON M WILLE
Claimant

MODERN PIPING INC
Employer

APPEAL NO. 19A-UI-04094-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/30/18
Claimant: Respondent (2)**

Iowa Code § 96.4-3 – Able and Available
Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence
Iowa Code § 96.19(38) – Partial and Temporary Unemployment

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated May 15, 2019 reference 03, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on June 13, 2019. Claimant participated personally. Employer participated by Lisa Hadenfeldt.

ISSUES:

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

Whether claimant is partially or temporarily unemployed?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant works as a third year plumbing apprentice for employer. In 2014 claimant was hired as a helper for employer. In 2017 claimant was granted a union training position with the local plumbing union. As the union had an agreement with employer, at the time of claimant's acceptance in to the union, he was granted an apprenticeship with employer which gave him additional money and benefits.

Six times a year, claimant must miss a week of work to attend training classes through the union. This is ordered through the union, but employer allows claimant to miss those weeks. Absent attending these classes, claimant would not be able to continue with the union but would be able to continue with his employment with employer, albeit not as an apprentice but rather as a helper. Claimant stated that he would still be a member of the union and still be able to attend the classes even if he were to lose his job with employer. Claimant stated that during the weeks when he has classes, he is not able and available for work.

Employer continues with its regular business while classes are taking place for apprentices and no scheduling changes are made.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 Admin. Code r. 871-24.23(10) provides:

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

Claimant in this matter has not established the ability to work during the week in question. As he states, he would still have a job and he is choosing to attend the classes rather than to continue with work. Work is still available to claimant during the weeks in question. Claimant has requested and the employer has granted weeks off from work such that claimant may attend classes to benefit himself and his employer. As such, these works are considered to be temporary leaves of absence and benefits are withheld.

DECISION:

The decision of the representative dated May 15, 2019, reference 03 is reversed. Claimant is not eligible to receive unemployment insurance benefits, for the one week effective April 28, 2019, as claimant was on an approved leave of absence and claimant was not able and available for work that existed during that week.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn