

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CAMRUN S NELSON
Claimant

BAKER GROUP
Employer

APPEAL NO. 22A-UI-03520-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/26/21
Claimant: Appellant (1)**

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

On January 20, 2022, Camrun Nelson (claimant) filed a timely appeal from the January 18, 2022 (reference 04) decision that denied benefits for the period beginning October 24, 2022, based on the deputy's conclusion that the claimant was still employed under the same hours and wages as existed in the base period and was not partially unemployed within the meaning of the law. After due notice was issued, a hearing was held on March 10, 2022. Claimant participated. The employer did not comply with the hearing notice instructions to call the designated toll-free number at the time of the hearing and did not participate. The hearing in this matter was consolidated with the hearing in Appeal Number 22A-UI-03860-JT-T. Exhibits A and B were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO and WAGE-A.

ISSUES:

Whether the claimant was able to work and available for work during the period of October 24, 2024 through November 13, 2021.

FINDINGS OF FACT:

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

The claimant, Camrun Nelson, is employed by Baker Group as a full-time electrical apprentice. The claimant began the employment in 2018. The claimant's usual work hours are 6:00 a.m. to 2:30 p.m., Monday through Friday. The claimant's wage is \$23.40 an hour. The wage has not decreased. The claimant usually reports to Foreman Eric Holcomb. Brant Sharp is Head of Manpower for the Electrical Control Division and exercises supervisory authority over the claimant's employment. The claimant is a member of the IBEW local 347 and frequently participates in week-long apprentice training through the Des Moines Electrical Apprenticeship program.

The claimant established an original claim for benefits that was effective September 26, 2021. The claimant made weekly claims for the period of September 26, 2021 through November 20, 2021. The claimant established an "additional claim" claim for benefit that was effective January 16, 2022 and made a weekly claim for the week that ended January 22, 2022. The

claimant established another additional claim that was effective February 20, 2022 and made a weekly claim for the week that ended February 26, 2022.

During the weeks that ended October 30, November 6, and November 13, 2021, the claimant worked his regular full-time hours, for which he earned his regular full-time wages.

During the weeks that ended November 20, 2022, January 22, 2022 and February 26, 2022, the claimant participated in full-time apprenticeship training, which prevented the claimant from being available to perform work for the employer. But for the claimant's participation in the union-sponsored training, the employer had the claimant's regular full-time hours available during those weeks.

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. 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. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

Iowa Code section 96.1A(37) 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.

If a claimant individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. Iowa Code section 96.7(2)(a)(2)(a).

During the weeks that ended October 30, November 6, and November 13, 2021, the claimant worked his regular full-time hours and received his full-time pay. For those reasons, the claimant did not meet the unemployment insurance "availability" requirement. Nor can the claimant be deemed unemployed during those three weeks. The claimant is not eligible for benefits for those three weeks.

DECISION:

The January 18, 2022 (reference 04) decision is affirmed. The claimant was not available for work within the meaning of the law during the weeks that ended October 30, November 6, and November 13, 2021. The claimant is not eligible for benefits for those weeks.

A handwritten signature in cursive script that reads "James E. Timberland". The signature is written in dark ink on a light gray rectangular background.

James E. Timberland
Administrative Law Judge

March 25, 2022
Decision Dated and Mailed

jet/mh