

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ROBERT W MAU**  
Claimant

**IOWA-ILLINOIS TAYLOR**  
Employer

**APPEAL 17A-UI-11142-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/29/17  
Claimant: Respondent (4)**

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.4(6)a – Department Approved Training  
Iowa Admin. Code r. 871-24.39 – Department Approved Training

**STATEMENT OF THE CASE:**

Iowa-Illinois Taylor (employer) filed an appeal from the October 27, 2017, reference 04 unemployment insurance decision that allowed benefits based upon the determination Robert W. Mau (claimant) was unemployed due to a short-term layoff. The parties were properly notified about the telephone hearing scheduled on November 17, 2017. The employer responded to the hearing notice instruction but no hearing was held as there was sufficient evidence in the appeal letter and administrative record to resolve the matter without testimony.

**ISSUES:**

Is the claimant partially unemployed for the one week period ending October 21, 2017?

Is the claimant eligible for department approved training?

Is the employer's account subject to charge?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed full-time. For the week beginning October 15, 2017, the claimant did not perform work for the employer but participated in a required week-long apprenticeship class. He has previously been eligible for department approved training during this claim year while working for the employer.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was totally unemployed the week ending October 21, 2017, he is eligible for department approved training, and the employer's account shall not be charged.

Iowa Code § 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.

Iowa Code § 96.4(6)a provides:

An otherwise eligible individual shall not be denied benefits for any week because the individual is in training with the approval of the director, nor shall the individual be denied benefits with respect to any week in which the individual is in training with the approval of the director by reason of the application of provision in subsection 3 of this section relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, an employer's account shall not be charged with benefits so paid.

Iowa Admin. Code r. 871-24.39 provides:

Department-Approved Training or Retraining Program.

The intent of department-approved training is to exempt the individual from the work search requirement for continued eligible for benefits so individuals may pursue training that will upgrade necessary skills in order to return to the labor forces. In order to be eligible for department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

(1) Any claimant for benefits who desires to receive benefits while attending school for training or retraining purposes shall make a written application of the department setting out the following:

a. The educational establishment at which the claimant would receive training.

- b. The estimated time required for such training.
- c. The occupation which the training is allowing the claimant to maintain or pursue.

(2) A claimant may receive unemployment insurance while attending a training course approved by the department. While attending the approved training course, the claimant need not be available for work or actively seeking work except if the hours of the training are outside the regular hours worked in the base period employment. After completion of department-approved training the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work, and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal or work without good cause after the claimant has completed the training.

(3) The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

The claimant was completely unemployed for the week in question as he did not earn any wages from the employer that week. The claimant also was not temporarily laid off work for that week due to a lack of work. The claimant attended apprenticeship training as required and as he has been over the course of his benefit year. The claimant is eligible for department approved training for the week ending October 21, 2017. The employer's account shall not be charged for that week of benefits.

**DECISION:**

The October 27, 2017, reference 04, unemployment insurance decision is modified in favor of the employer/appellant. The claimant is eligible for department approved training for the week ending October 21, 2017 and the employer's account shall not be charged for benefits paid for that week.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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