

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOSH C OWENS

Claimant

APPEAL 21A-UI-02171-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BAKER ELECTRIC INC

Employer

OC: 02/02/20

Claimant: Appellant (4)

Iowa Code section 96.4(3) – Eligibility – Able to and Available for Work

STATEMENT OF THE CASE:

On December 22, 2020, Josh Owens (claimant/appellant) filed an appeal from the December 18, 2020 (reference 02) unemployment insurance decision that denied benefits as of November 1, 2020 based on a finding he requested and was granted a leave of absence.

A telephone hearing was held on March 2, 2021. The parties were properly notified of the hearing. The claimant participated personally. Baker Electric Inc (employer/respondent) participated by Payroll Jen Pederson. Payroll Jennifer Robinson participated as a witness for employer.

Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

FINDINGS OF FACT:

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

Claimant's first day of employment was February 13, 2017. Claimant is still employed by employer as a full-time apprentice electrician. Claimant was not available for work from November 30 through December 4, 2020. This is due to claimant attending full-time union training during that week.

Claimant's job site was shut down from November 19 until December 7, 2020, and so no work was available for him during that time. Claimant was otherwise employed and working full-time during the relevant timeframe. Claimant filed a claim for benefits in the weeks ending November 7, November 28, and December 5, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the December 18, 2020 (reference 02) unemployment insurance decision that denied benefits as of November 1, 2020 based on a finding claimant requested and was granted a leave of absence is MODIFIED in favor of appellant. Claimant is eligible for benefits for the benefit week ending November 28, 2020. Claimant is not eligible for benefits in the weeks ending November 7 and December 5, 2020.

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".

Claimant's job site was shut down from November 19 until December 7, 2020, and so no work was available for him during that time. However, claimant was not available for work from November 30 through December 4, 2020, as he was attending full-time training that week. Claimant is only eligible for benefits during the week he was available for work but no work was available, the week ending November 28, 2020.

Claimant is not eligible for benefits in the week ending November 7, 2020, as he was employed and working to such an extent during that week as to be unavailable for other work.

DECISION:

The December 18, 2020 (reference 02) unemployment insurance decision that denied benefits as of November 1, 2020 based on a finding claimant requested and was granted a leave of absence is MODIFIED in favor of appellant. Claimant is eligible for benefits for the benefit week ending November 28, 2020. Claimant is not eligible for benefits in the weeks ending November 7 and December 5, 2020.



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

March 8, 2021
Decision Dated and Mailed

abd/lj

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>.