

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT W STEPHENSON
Claimant

T&D POWER INC
Employer

APPEAL 17A-UI-01598-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/25/16
Claimant: Respondent (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The employer filed an appeal from the February 2, 2017, (reference 01) unemployment insurance decision that allowed benefits based upon claimant's availability for work during a short-term layoff. The parties were properly notified about the hearing. A telephone hearing was held on March 6, 2017. Claimant did not participate. Employer participated through human resources coordinator Cameron Dubray and human resource assistant Luis Luna.

ISSUE:

Is the claimant able to work and available for work effective December 25, 2016?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is subject to a collective bargaining agreement stating that bargaining unit employees will be on unpaid break during the last two weeks of the calendar year. Therefore, claimant did not work during the last two weeks of the year. Claimant also did not work during the first week of January 2017 because employer did not have work available. Claimant returned to work on January 9, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able to work and available for work for the period in question.

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".

In this case, the employer negotiated a temporary, unpaid layoff with the union representing claimant's bargaining unit. Claimant did not work during the last two weeks of December 2016 because of the agreement employer made. Claimant did not work during first week of January 2017 because of a lack of work. Nothing in the record indicates claimant was not able to or available for work during this time period.

DECISION:

The February 2, 2017, (reference 01) unemployment insurance decision is affirmed. The claimant is able to work and available for work effective December 25, 2016. Benefits are allowed.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

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