

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**BRANDAN ROSS**

Claimant

**APPEAL 21A-UI-03248-DG-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COMMONWEALTH ELECTRIC CO OF THE**

Employer

**OC: 11/17/19**

**Claimant: Respondent (2)**

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment

Iowa Code § 96.4(3) – Ability to and Availability for Work

Iowa Admin. Code r. 871-24.23(26) – Availability Disqualifications Same Hours and Wages

Iowa Code § 96.7(2)a(2) – Same Base Period Employment

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated January 8, 2021, (reference 01) that held claimant able to and available for work. After due notice, a hearing was scheduled for and held on March 19, 2021. Employer participated by Kelsey Drexel, Payroll Manager. Claimant failed to respond to the hearing notice and did not participate. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Is the claimant able to work and available for work effective November 8, 2020?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant began working for employer on April 23, 2018 and is a full-time electrician apprentice. Claimant is affiliated with his Local Union. As part of the apprenticeship program with the local union, claimant is required to undergo training until he obtains journeyman status.

For the one-week period ending November 14, 2020, claimant attended an apprenticeship training class. He did not earn any wages, holiday pay, vacation pay or pension pay for that week. Claimant was not required to attend this training on this specific week in order to remain eligible for his employment with this employer. If the claimant missed the class, then he could make up the class later. Claimant has the ability to join other unions. Work was available to the claimant if he had chosen not to go to the class the week-ending November 14, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

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"**.

(emphasis added.)

Iowa Code section 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.

(emphasis added).

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.

Claimant was not available for work as he was attending classroom training the entire week-ending November 14, 2020. As such, the claimant has failed to establish he was able to work, available for work, and actively seeking work effective November 8, 2020 through November 14, 2020. Benefits are denied for that one week period.

**DECISION:**

The January 8 2021 (reference 01) unemployment insurance decision is reversed. The claimant was not on a short-term layoff and was not partially or temporarily unemployed effective November 8, 2020. Claimant failed to establish that he was available for work. Benefits are denied effective November 8, 2020 through November 14, 2020.



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Duane L. Golden  
Administrative Law Judge

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March 31, 2021  
Decision Dated and Mailed

dlg/ol

**Note to Claimant:**

If this decision determines you are not eligible for regular unemployment insurance benefits and you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently 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 under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final, or if you are not eligible for PUA, you may have an overpayment of benefits.