

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

**AUSTIN W DAVIS**

Claimant

**APPEAL NO. 19A-UI-01560-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WINGER CONTRACTING CO**

Employer

**OC: 02/25/18**

**Claimant: Appellant (2)**

Section 96.4-3 – Able and Available  
871 IAC 24.1(113)a – Separations From Employment  
Section 96.5-1 – Voluntary Leaving - Layoff

**STATEMENT OF THE CASE:**

Austin Davis (claimant) appealed a representative's February 14, 2019, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits for the week ending January 26, 2019, because he did not work the major portion of the week with Winger Contracting (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 7, 2019. The claimant was represented by David Stuckel, Attorney at Law, and participated personally. The employer was represented by Patrick Curran, Corporate Counsel, and participated by Mandy Thrasher, Payroll/Union Manager.

**ISSUE:**

The issue is whether the claimant is able and available for work for the week ending January 26, 2019.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on June 3, 2013, as a full-time sheet metal apprentice technician. He applied to the apprentice program, took the test, and the employer accepted him. The employer and Union Local 91 contribute to a trust fund so that workers in the apprenticeship program may attend training classes multiple times during the course of the year. The training classes increase the workers' knowledge which, in turn, benefits the employer.

The claimant was given a calendar of classes he was required to attend. The employer authorized the claimant to attend an apprenticeship training class in Rock Island, Illinois, for the week ending January 26, 2019. This class was required for the claimant to eventually achieve journeyman sheet metal worker status. During that week the employer did not pay the claimant any wages or offer him any work. The claimant filed for unemployment insurance benefits with an additional claim date of January 20, 2019, and was denied unemployment insurance benefits. The claimant did not file for benefits after that week.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was able and available for work for the week ending January 26, 2019.

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. 871-24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

During the week ending January 26, 2019, the claimant was suspended from work status for lack of work orders. When an employer suspends a claimant from work status for a period of time, the separation does not prejudice the claimant. The claimant's separation was attributable to a lack of work by the employer. The claimant is considered able and available for work during this period. Benefits are allowed, provided the claimant is otherwise eligible.

## **DECISION:**

The representative's February 14, 2019, decision (reference 01) is reversed. The claimant is considered able and available for work for the week ending January 26, 2019. Benefits are allowed, provided the claimant is otherwise eligible.

---

Beth A. Scheetz  
Administrative Law Judge

---

Decision Dated and Mailed

bas/rvs