

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**DALTON R JESTER**  
Claimant

**APPEAL NO. 19A-UI-04540-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**B G BRECKE INC**  
Employer

**OC: 11/04/18**  
**Claimant: Respondent (1)**

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:**

B.G. Brecke (employer) appealed a representative's May 31, 2019, decision (reference 04) that concluded Dalton Jester (claimant) was eligible to receive unemployment insurance benefits as of May 12, 2019. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 28, 2019. The claimant participated personally. The employer participated by Carley Kohout, Accounting Specialist.

**ISSUE:**

The issue is whether the claimant is able and available for work for the week ending May 18, 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 May 11, 2015, as a full-time mechanical helper. The employer encouraged him to apply to the apprenticeship program. He completed the application, and applied to the Joint Apprenticeship and Training Committee (JATC), a group consisting of union and employer representatives. He interviewed, took the test, and on July 11, 2015, the employer hired him as a plumbing pipe fitter apprentice. The claimant was accepted into the program.

The employer and Union Local 125 contribute to a 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, benefit the employer. By being accepted into the program, the claimant's weekly wages and benefits increase.

The claimant and the employer were given a calendar of classes he was required to attend. The employer authorized the claimant to attend an apprenticeship training class for the week ending May 18, 2019. This was a required class and was required for the claimant. If he did not attend the class, he would lose his benefits and/or his job. During that week the employer did not pay the claimant any wages or offer him any work. The claimant filed for unemployment insurance benefits for the week ending May 18, 2019, and received \$467.00. 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 May 18, 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 May 18, 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 May 31, 2019, decision (reference 04) is reversed. The claimant is considered able and available for work for the week ending May 18, 2019. Benefits are allowed, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs