

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STEVE M POSTEMA
Claimant

T&D POWER INC
Employer

APPEAL 17A-UI-01600-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/20/16
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. The parties were properly notified about the hearing. A telephone hearing was held on March 6, 2017. Claimant participated. Employer participated through human resources coordinator Cameron Dubray.

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 works for employer as a general foreman. Claimant was laid off from December 21, 2016, through January 4, 2017. Claimant was available for work, had work been available.

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, claimant was laid off for the time period in question. Claimant was available for work. Although the employer claims the layoff was actually union negotiated, unpaid leave, it presented no evidence to support its assertion. Claimant testified that no such provision exists in the collective bargaining agreement. I find claimant's testimony more credible than employer. Claimant is eligible for benefits during the time period in question.

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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