

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CREADELL L WILLIAMS**  
Claimant

**NATURE CARE COMPANY**  
Employer

**APPEAL 15A-UI-13614-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/15/15**  
**Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions  
Iowa Code § 96.4(6) – Department Approved Training (DAT)  
871 IAC 24.39(2) – Department Approved Training – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 9, 2015, (reference 01) unemployment insurance decision that denied benefits based upon claimant's availability for work. The parties were properly notified about the hearing. A telephone hearing was held on December 29, 2015. Claimant participated. Employer participated through CFO Dennis Craven.

**ISSUE:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has been employed with employer on a part-time basis as a laborer since April 20, 2013.

Claimant became a full-time student at the University of Iowa during the 2014-2015 school year. During the 2014-2015 school year, claimant's school schedule allowed him to work half days for employer.

Claimant continued his status as a full-time student during fall 2015. However, his school schedule changed such that he was no longer able to work on a part-time basis for employer beginning in August. Fall semester has now ended and claimant has performed snow removal for employer on two days.

Claimant has been granted Department Approved Training (DAT) status from November 21, 2015 through January 2, 2016.

## REASONING AND CONCLUSIONS OF LAW:

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Code § 96.4(6)a-b provides:

6. a. An otherwise eligible individual shall not be denied benefits for any week because the individual is in training with the approval of the director, nor shall the individual be denied benefits with respect to any week in which the individual is in training with the approval of the director by reason of the application of the provision in subsection 3 of this section relating to availability for work, and an active search for work or the provision of § 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, an employer's account shall not be charged with benefits so paid.

b. An otherwise eligible individual shall not be denied benefits for a week because the individual is in training approved under 19 U.S.C. § 2296(a), as amended by § 2506 of the federal Omnibus Budget Reconciliation Act of 1981, because the individual leaves work which is not suitable employment to enter the approved training, or because of the application of subsection 3 of this section or § 96.5, subsection 3, or a federal unemployment insurance law administered by the department relating to availability for work, active search for work, or refusal to accept work.

For purposes of this paragraph, "suitable employment" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. § 2319(l), if weekly wages for the work are not less than eighty percent of the individual's average weekly wage.

Iowa Admin. Code r. 871-24.39 provides:

Department-approved training or retraining program. The intent of the department-approved training is to exempt the individual from the work search requirement for continued eligibility for benefits so individuals may pursue training that will upgrade necessary skills in order to return to the labor forces. In order to be eligible for department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

(1) Any claimant for benefits who desires to receive benefits while attending school for training or retraining purposes shall make a written application to the department setting out the following:

- a. The educational establishment at which the claimant would receive training.
- b. The estimated time required for such training.
- c. The occupation which the training is allowing the claimant to maintain or pursue.

(2) A claimant may receive unemployment insurance while attending a training course approved by the department. While attending the approved training course, the claimant need not be available for work or actively seeking work. After completion of department-approved training the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

(3) The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

This rule is intended to implement Iowa Code § 96.4(6).

Because claimant has been approved for department approved training from November 21, 2015 through January 2, 2016, the work availability and work search requirements of Iowa Code § 96.4(3) are waived so long as claimant continues to fulfill, in good faith, his academic pursuits during the affected period. No employer will be charged for benefits paid to claimant during the period in which he is approved for department approved training.

**DECISION:**

The December 9, 2015, (reference 01) unemployment insurance decision is reversed. Claimant has been approved for department approved training for the period from November 21, 2015 through January 2, 2016. Thus, the work availability and work search requirements are waived during this time period. Claimant is allowed benefits, provided he is otherwise eligible. No employer's account should be charged.

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Decision Dated and Mailed

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