

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

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**CHRISTOPHER T EBY**  
Claimant

**APPEAL 23A-UI-01407-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**INGREDION INCORPORATED**  
Employer

**OC: 08/07/22  
Claimant: Appellant (4)**

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Iowa Code § 96.5(4) – Labor Disputes  
Iowa Code § 96.4(3) – Able to and Available for Work  
Iowa Code § 96.1A(37) – Total, Partial, Temporary Unemployment

**STATEMENT OF THE CASE:**

The claimant/appellant, Christopher Eby, appealed the February 3, 2023 (Reference 01) initial decision which allowed benefits, concluding claimant was on a layoff due to a lack of work. After proper notice, a telephone hearing was held on February 28, 2023. The claimant, Christopher Eby, participated personally. The employer/appellant, Ingredion Incorporated, did not participate. Official notice was taken of the administrative record. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision. The Claimant's Exhibit A was offered and admitted into the record.

**ISSUES:**

Is the claimant disqualified from benefits due to a labor dispute?  
Was the claimant able to and available for work effective August 1, 2022 through February 4, 2023?  
Was the claimant totally, partially, or temporarily unemployed effective August 1, 2022?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant established his claim for unemployment insurance benefits with an effective date of October 10, 2021.

Claimant began work for employer on November 18, 1991. Claimant works for employer as a full-time corn elevator operator. Claimant works in the Cedar Rapids Iowa plant location. Claimant performed work in this position until August 1, 2022. At that time, employees began a strike concerning the terms and conditions of their employment.

Claimant is a union member of the union BCTGM100G: Bakers, Confectionaries, Tobacco, Grain Millers Union. The union notified the employer on August 1, 2022 that they were on strike. The claimant was able and available for work during the labor dispute. The end of strike contract was ratified on January 22, 2023. See Exhibit A. The employer needed more time to bring the

employees back. The employees returned to work on February 6, 2023. Between the date the employees returned to work and the contract was ratified, the claimant was able to and available for work. In the contract, the company agreed to not contest employment to any employees who were a part of the contract but were not recalled back to work. The claimant was readily available but just not recalled to work between January 22, 2023 and February 6, 2023.

Following the labor dispute, the employees in claimant's position received favorable changes in the conditions of their employment, including an increase in pay.

Claimant returned to work on February 6, 2023 after the labor dispute ended. He is still employed by employer.

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

For the reasons set forth below, the administrative law judge concludes the claimant is ineligible for unemployment insurance benefits for the period of August 1, 2022 through January 22, 2023 due to a labor dispute.

Iowa Code section 96.1A(37) 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.

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 Code section 96.5(4) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

4. Labor disputes.

a. For any week with respect to which the department finds that the individual's total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which the individual is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the department that:

1. The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and
2. The individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.

b. Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.

Iowa Admin. Code r. 871-24.33(1) provides:

As used in sections 96.5(3)“b”(1) and 96.5(4), the term labor dispute shall mean any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment regardless of whether the disputants stand in the proximate relation of employer and employee. An individual shall be disqualified for benefits if unemployment is due to a labor dispute.

Iowa Admin. Code r. 871-24.34 provides in relevant part:

Labor dispute—policy.

(2) Union membership in and of itself is not the determinative factor in whether an individual is participating in, financing or directly interested in the labor dispute.

A claimant is disqualified from unemployment insurance benefits during a work stoppage caused by a labor dispute. A work stoppage due to a labor dispute must be the cause of unemployment to result in the striking worker's disqualification from receiving unemployment benefits. *Titan Tire Corp. v. Employment Appeal Bd.*, 641 N.W.2d 752 (Iowa 2002). A claimant is not disqualified from benefits during such a period if the claimant is not financing, participating in, or directly interested

in the labor dispute personally **AND** does not belong to a class of workers who are financing, participating in, or directly interested in the labor dispute.

There is little guidance in Iowa statutes, administration regulations, and case law as to what constitutes “financing, participating in, or being interested in the labor dispute” within the meaning of the statute at issue. However, the plain meaning of “interest” supports a finding that at minimum others in claimant’s class of workers who were on strike were “interested in the labor dispute.” See INTEREST, Black’s Law Dictionary (11th ed. 2019) (defining interest as “the object of any human desire; esp., advantage or profit of a financial nature.”).

The labor dispute at issue here concerned the terms and conditions of the employment of the class of workers claimant belongs to. As noted above, following the labor dispute employees in claimant’s position - including claimant - received favorable changes in the conditions of their employment, including an increase in pay and benefits. Based on the evidence presented, the administrative law judge finds that being on strike in order to secure more favorable terms and conditions of employment constitutes “being interested in the labor dispute” within the meaning of the statute.

Case law from the Illinois Appellate Court, while not binding here, is persuasive. The Illinois corollary to the Iowa statute also provides that claimants are “ineligible for benefits for any week with respect to which it is found that his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute...” It also provides an exception where:

(A) the individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work and

(B) he does not belong to a grade or class of workers of which immediately before the commencement of the stoppage there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute

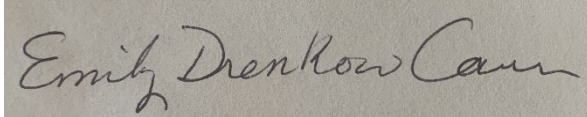
820 Ill. Comp. Stat. Ann. 405/604. The Appellate Court of Illinois has held that an employee who was not a union member was ineligible for unemployment benefits during the period that union members of his grade or class – who participated in and were directly interested in the labor dispute – were on strike. *Boone v. Dep’t of Lab.*, 495 N.E.2d 66, 68 (1986). Because the court found claimant belonged to an interested grade or class of workers it, did not reach the issue of whether the claimant was himself directly interested in the labor dispute to his receiving an increase in wages and benefits as a result of the strike. *Id.* The facts in *Boone* mirror the case at hand.

Based on the evidence presented, the administrative law judge concludes the claimant’s unemployment beginning the week of August 1, 2022 was due to a work stoppage caused by a labor dispute. The administrative law judge finds this result is required by law, even though claimant is not a union member; was directed by his supervisor not to report to work during the labor dispute; was able and available for work during the labor dispute; and was not directly participating in, financing, or interested in the labor dispute which caused the stoppage of work.

Because claimant belongs to a class of workers which were employed at the premises where the stoppage occurred immediately before the commencement of the stoppage and who were participating in, financing, or directly interested in the dispute, claimant is disqualified from benefits during the labor dispute. Claimant is therefore disqualified from benefits during the labor dispute and unemployment insurance benefits are denied.

**DECISION:**

The decision dated February 3, 2023 (reference 01) that denied unemployment insurance benefits beginning August 1, 2022 is modified in favor of the claimant. Claimant is disqualified from unemployment insurance benefits from August 1, 2022 through January 22, 2023 due to a labor dispute. The claimant is eligible for benefits January 23, 2023 until February 5, 2023 when he returned to work.

A handwritten signature in cursive script, reading "Emily Drenkow Carr", written in dark ink on a light-colored, textured background.

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Emily Drenkow Carr  
Administrative Law Judge

March 2, 2023  
Decision Dated and Mailed

ed/scn

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**AN APPEAL TO THE BOARD SHALL STATE CLEARLY:**

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://eab.iowa.gov)**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.