

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JOSEPH E DAVIS**  
Claimant

**MODERN PIPING INC**  
Employer

**APPEAL 19A-UI-07541-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/23/18  
Claimant: Respondent (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
871 IAC 24.1(113)a – Separations From Employment  
Iowa Code § 96.5-1 – Voluntary Leaving - Layoff

**STATEMENT OF THE CASE:**

Modern Piping (employer) appealed a representative's September 20, 2019, decision (reference 09) that concluded Joseph Davis (claimant) was eligible to receive unemployment insurance benefits as of August 25, 2019. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 16, 2019. The claimant participated personally. The employer participated by Lisa Hadenfeldt, Human Resources Coordinator. The administrative law judge took official notice of the administrative record.

**ISSUE:**

The issue is whether the claimant is able and available for work for the week ending August 31, 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 July 19, 2016, as a full-time apprentice pipefitter. Employers and Union Local 125 contribute to a fund so that workers in the apprenticeship program may attend training classes 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 for the week ending August 31, 2019. The class was required for the claimant to eventually achieve journeyman pipefitter welder 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 effective date of September 23, 2018, and an additional claim date of August 25, 2019.

**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 August 31, 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 Code section 96.19(38) 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 Admin. Code r. 871-24.22(2)(1), (2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area

in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

Iowa Admin. Code r. 871-24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

During the week ending August 31, 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 September 20, 2019, decision (reference 09) is affirmed. The claimant is considered able and available for work for the week ending August 31, 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