

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

STANISLAS V SODJINOU
Claimant

REMEDY INTELLIGENT STAFFING INC
Employer

APPEAL 22A-UI-14800-LJ-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 06/05/22
Claimant: Appellant (2)

Iowa Code § 96.1A(37) – Total, Partial, and Temporary Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On July 6, 2022, claimant Stanislas V. Sodjinou filed an appeal from the July 1, 2022 (reference 02) unemployment insurance decision that denied benefits based on a determination that he was still employed as of June 5, 2022, at his same hours and wages and therefore was not unemployed. The parties were properly notified of the hearing. A telephonic hearing was held at 8:00 a.m. on Wednesday, August 17, 2022. Appeal numbers 22A-UI-14800-LJ-T and 22A-UI-14801-LJ-T were heard together and created one record. The claimant, Stanislas V. Sodjinou, participated. The employer, Remedy Intelligent Staffing, Inc., participated through JT Breslin, Area Manager. French/English interpreter Joseph (ID number 194197) with CTS Language Link) provided interpretation services for the hearing. Claimant's Exhibits A and B were received and admitted into the record without objection. The administrative law judge took official notice of the administrative record.

ISSUES:

Was the claimant totally, partially, or temporarily unemployed effective June 5, 2022?
Was the claimant able to and available for work effective June 5, 2022?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Remedy Intelligent Staffing in June 2021. He was a full-time employee of the temporary employment firm and he was most recently assigned to work as a production-packaging worker at General Mills. Claimant's production packaging assignment at General Mills ended on June 8, 2022, due to a lack of work.

Claimant worked three of his standard six days during his last week of work. Following that week, he did not work any hours or earn any wages from this employer during any week that he filed for unemployment insurance benefits. After claimant's employment ended, he immediately began looking for other full-time warehouse work. He documented each of his job applications when filing his weekly claims for benefits. Claimant ultimately found a job and began working on July 12, 2022.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was partially unemployed for the one-week period ending June 11, 2022. Effective June 12, 2022, claimant was totally unemployed. For all of this time, claimant was eligible for benefits.

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 96.1A, subsection 37", paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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 § 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.

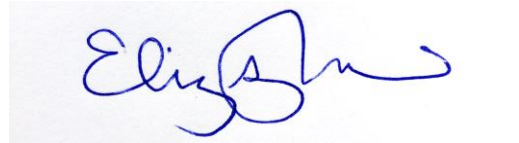
In order to be partially unemployed, an individual must be laid off from full-time employment or working less than their regular full-time work week. In this case, during the first week that claimant filed for benefits, he fits into the category of (b)(1). He was at his then-regular job at Remedy Intelligent Staffing – and working at the General Mills Assignment, and he was working less than his regular full-time week, working only three of his standard six days and earning only

half of his normal wages. Therefore, claimant was eligible for partial unemployment insurance benefits for that week.

For all remaining weeks that claimant filed for benefits, he fit the requirements of a "totally unemployed" person. Claimant was working no hours and earning no wages with the employer (or any other employer). As established through his testimony, claimant was able to work and available for work during this time: he was in town, with transportation, healthy and ready to accept employment. Claimant was actively applying for and seeking employment for which he was qualified, and this earnest work search eventually led to gainful employment. Claimant has established he was totally unemployed and able and available for work effective June 12, 2022.

DECISION:

The July 1, 2022 (reference 02) unemployment insurance decision is reversed. Claimant was partially unemployed effective June 5, 2022, for the one week ending June 11, 2022. Thereafter, claimant was totally unemployed. Benefits are allowed, provided he is otherwise eligible.



Elizabeth A. Johnson
Administrative Law Judge

September 29, 2022
Decision Dated and Mailed

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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
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: 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**

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.