

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROCKIE C MOSES

Claimant

APPEAL 21A-UI-00571-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC

Employer

OC: 04/05/20

Claimant: Appellant (2R)

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search

Iowa Code § 96.19(38) – Total, partial unemployment

STATEMENT OF THE CASE:

On November 25, 2020, Rockie Moses (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated November 19, 2020 (reference 01) that denied benefits as of April 5, 2020 based on a finding claimant was still employed for the same hours and wages.

A telephone hearing was held on February 9, 2021. The parties were properly notified of the hearing. Claimant participated personally. Team Staffing Solutions Inc (employer/respondent) participated by Sarah Fiedler.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. 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 began working for employer on February 18, 2019. He was assigned to work for Allsteel. Claimant was subsequently hired by Allsteel for a full-time position effective on or about April 28, 2019. Claimant has not worked for employer since and has continued to be employed by Allsteel.

Claimant was laid off by Allsteel during all or a portion of the weeks he filed for benefits. This was due to the pandemic. Claimant was willing and able to work during the times when work was unavailable.

Claimant filed a claim for benefits in the weeks ending April 11 and 18, 2020. Claimant reported \$76.00 of wages in the week ending April 11, 2020. He also filed a claim each week from the

weeks ending May 16, 2020 through June 13, 2020. He reported wages in the amount of \$300.00 for the week ending May 30, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the November 19, 2020 (reference 01) that denied benefits as of April 5, 2020 based on a finding claimant was still employed for the same hours and wages is REVERSED.

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.

Claimant was able to and available for work during the weeks he filed for benefits but there was no or reduced work available to him during each of those weeks. He is eligible for benefits for each week filed except for the week ending May 30, 2020, when he reported earning wages in excess of his weekly benefit amount plus \$15.00.

The evidence indicates claimant separated from employer to take the full-time job with Allsteel. Such a separation is not disqualifying and should result in no charge to employer. However, that issue is not before the administrative law judge and so must be remanded to the Department for a determination.

DECISION:

The November 19, 2020 (reference 01) that denied benefits as of April 5, 2020 based on a finding claimant was still employed for the same hours and wages is REVERSED. Claimant is eligible for benefits as set forth above.

REMAND:

This matter is remanded to the Benefits Bureau for an initial investigation and determination on the issue of claimant's separation from employer.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Des Moines, Iowa 50319-0209
Fax (515) 478-3528

February 22, 2021
Decision Dated and Mailed

abd/mh