

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LANCE C PUTZIER
Claimant

WELLS ENTERPRISES INC
Employer

APPEAL 17A-UI-13004-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/22/17
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Able and Available
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Part time, same hours and wages
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the December 14, 2017 (reference 04) unemployment insurance decision that found claimant was ineligible for unemployment benefits because he was working enough hours to be considered employed. The parties were properly notified of the hearing. A telephone hearing was held on January 12, 2018. The claimant, Lance C. Putzier, participated personally. The employer, Wells Enterprises Inc., did not participate. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records including the fact-finding documents.

ISSUES:

Is the claimant able to work and available for work?
Is claimant employed for the same hours and wages?
Does the claimant meet the definition of being considered totally or partially unemployed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed full-time for this employer. Claimant began working for this employer on October 17, 2016 and he remains employed today. This employer operates a factory and has temporary layoffs. Claimant was temporarily laid off due to lack of production in the factory for the benefit week-ending December 2, 2017; December 23, 2017 and December 30, 2017.

Claimant did not earn any wages, holiday pay, vacation pay, or pension pay for the week-ending December 2, 2017. Claimant did not earn any wages, holiday pay, vacation pay or pension pay for the week-ending December 23, 2017. Claimant did not earn any wages, vacation pay or pension pay for the week-ending December 30, 2017. Claimant did earn holiday pay in the gross amount of \$186.00 for the week-ending December 30, 2017. Claimant was able to and available for work if work had been available for him for the benefits weeks ending December 2, 2017, December 23, 2017 and December 30, 2017. Claimant is now back to work after this temporary layoff effective December 31, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was temporarily unemployed for the benefit week-ending December 2, 2017, the benefit week-ending December 23, 2017, and the benefit-week ending December 30, 2017.

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", subparagraph 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 § 96.19(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 temporarily unemployed from his full-time employer for the benefit week-ending December 2, 2017, the benefit week-ending December 23, 2017, and the benefit-week ending December 30, 2017 due to lack of production. Benefits may be allowed for these weeks listed, subject to any deductions for holiday pay earned during the week-ending December 30, 2017. Because claimant has returned to work effective December 31, 2017, he is not available for work effective December 31, 2017 due to working full-time. If claimant's circumstances change

regarding his employment status (layoff, separation) and he believes the disqualification effective December 31, 2017 based upon full-time employment can be removed, he should contact his local workforce development center immediately to request the disqualification be removed.

DECISION:

The December 14, 2017 (reference 04) unemployment insurance decision is modified in favor of appellant. The claimant was unemployed and benefits are allowed for the benefit week-ending December 2, 2017, December 23, 2017 and December 30, 2017, provided he is otherwise eligible, and subject to any deductions for holiday pay earned during the week-ending December 30, 2017 as delineated in the findings of fact. Claimant is not available for benefits effective December 31, 2017, due to working full-time.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs