

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

CHARLES A RICHARDS

Claimant

and

BDS MARKETING LLC

Employer

: **APPEAL NUMBER:** 22B-UI-12005

: **ALJ HEARING NUMBER:** 22A-UI-12005

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: **EMPLOYMENT APPEAL BOARD
DECISION**

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NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.1A-37, 96.4-3

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

In case 12005 decided today the Claimant is denied benefits for the weeks from March 27, 2022 through April 17, 2022. In case 13227 decided today the Claimant is denied benefits for the weeks from April 24, 2002 through June 11, 2022. These decisions do not deny the Claimant benefits for any weeks other than the weeks specified.

The basis for the denial in the weeks in question, as explained by the Administrative Law Judge, was the Claimant being employed in part-time work in the same pattern as expected in the contract of employment. Under rule 871-24.23(26), cited by the Administrative Law Judge, the Claimant is not partially unemployed for these weeks. *See also Powell v. Employment Appeal Bd.*, 861 NW 2d 279 (Iowa App. 2014)(applying rule 24.23(26) to deny partial benefits).

The disqualification imposed by today's cases ends on June 11 because the Claimant was separated at that time. Whether the Claimant is allowed following his separation is not addressed by us today. In fact, it appears that the Claimant prevailed on that issue and has been paid benefits for the weeks ending 6/11/22 through 9/17/22. His claim does not appear to be currently locked, meaning there is no reason currently that he cannot collect benefits going forward. Our decisions today will not keep him from collecting benefits going forward. But he remains denied for the specific weeks covered by today's decision.

As for the "modification" in case 13227 the reason the Administrative Law Judge wrote that the decision was modified in the Claimant's favor was that the Administrative Law Judge put an end date on the disqualification. The Benefits Bureau had disqualified the Claimant indefinitely. The Administrative Law Judge put an end date on the disqualification, as do we. Had the Administrative Law Judge not put an end date on the disqualification (June 11, 2022), the Claimant *would* be unable to collect benefits going forward. But there is an end date and so the Claimant *is not* currently barred from collect benefits going forward. This is what the Administrative Law Judge meant by saying there was a favorable modification.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

RRA/fnv