

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ROBERT A PETERSEN**  
Claimant

**MODERN PIPING INC**  
Employer

**APPEAL 19A-UI-00726-NM-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/30/18**  
**Claimant: Respondent (1R)**

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Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2)f – Availability for Work - Part-time Worker/Student  
Iowa Admin. Code r. 871-23.43(4)a – Supplemental Employment

**STATEMENT OF THE CASE:**

The employer filed an appeal from the January 16, 2019, (reference 01) unemployment insurance decision that allowed benefits based upon a determination that claimant was unemployed due to a short-term layoff. The parties were properly notified about the hearing. A telephone hearing was held on February 8, 2019. Claimant participated and testified. Employer participated through Human Resource Coordinator Lisa Hadenfeldt.

**ISSUES:**

Is the claimant totally or partially unemployed and available for work?  
If so, is the employer's account liable for potential charges?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant began working for this employer, as a full-time pipe fitter, on June 20, 2017. This employer is a base-period employer. Claimant was permanently laid off due to lack of work on July 11, 2017. Claimant belongs to a Union and has worked for several employers since his permanent layoff from this employer. Claimant is currently laid off due to lack of work and awaiting his next assignment from his Union.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was not partially unemployed, but totally unemployed from this employer on July 11, 2017.

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 Code section 96.7(2)a(2)(a), (b), and (c) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual

received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

Claimant was employed as a full-time pipe-fitter, but was permanently laid off due to lack of work on July 11, 2017. Accordingly, claimant is totally unemployed from this employer. He is awaiting his next Union assignment and is able to and available for work.

As claimant has been permanently separated from employment, the issues of his separation, requalification, and chargeability to this employer must be remanded to the Benefits Bureau for initial investigation and determination.

**DECISION:**

The January 16, 2019, (reference 01) unemployment insurance decision is affirmed. The claimant is totally unemployed and is able to and available for work. Benefits are allowed, provided he is otherwise eligible.

**REMAND:**

The issues of claimant's separation from this employer, his subsequent requalification, and chargeability to the employer's account, are remanded to the Benefits Bureau of Iowa Workforce Development for initial investigation and determination.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

nm/rvs