

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

**SHELBY J STAPLETON**  
Claimant

**APPEAL NO: 19A-UI-03820-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DEERE & COMPANY**  
Employer

**OC: 10/07/18**  
**Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

The claimant, Shelby J. Stapleton, filed an appeal from the May 6, 2019, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 31, 2019. The claimant participated personally. The employer did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing. The administrative law judge took official notice of the administrative records including the fact-finding documents. Claimant Exhibit A was admitted into evidence. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Is the claimant able to work and available for work effective April 14, 2019 through April 27, 2019?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed full-time as an assembler for this employer in Waterloo. For the week of April 14-20, 2019, the claimant worked thirty-two hours and earned eight hours of vacation pay. The claimant knew he would be laid off for the next three weeks and filed his claim proactively, when he made a claim for benefits for the week ending April 20, 2019.

For the week April 21-27, 2019, the claimant was temporarily laid off from the employer. He earned no wages and was available for recall. He returned to work on May 13, 2019 and continues to work full-time.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant was able to and available for work April 14, 2019 through April 27, 2019.

Iowa Admin. Code r. 871-24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

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 96.4(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 Admin. Code r. 871-24.23(23) provides: Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work. (23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

For the week of April 14-20, 2019, the undisputed evidence is the claimant performed work full-time and therefore was not unemployed. His filing for benefits was in error. Benefits are denied for the week ending April 20, 2019.

For the week of April 21-27, 2019, the claimant was totally unemployed as he was laid off work that week. He had no restrictions to his employability and was able and available for work. Benefits are allowed for the week ending April 27, 2019, provided claimant is otherwise eligible.

**DECISION:**

The May 6, 2019, (reference 01) decision is modified in favor of the claimant/appellant. The claimant was not able and available for work for the week ending April 20, 2019 due to full-time employment. The claimant was able to and available for work for the week of April 21-27, 2019. Benefits are allowed for this week, provided he is otherwise eligible.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

jlb/scn