

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**MARITZA L MALDONADO**  
Claimant

**APPEAL NO. 19A-UI-01634-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PRIMESOURCE STAFFING LLC**  
Employer

**OC: 01/27/19**  
**Claimant: Respondent (2R)**

Iowa Code section 96.4(3) – Able & Available  
Iowa Code Section 96.19(38)(c) – Temporarily Unemployed

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the February 13, 2019, reference 04, decision that allowed benefits effective January 27, 2019 provided the claimant was otherwise eligible, based on the deputy's conclusion that the claimant was able to work, available for work, but on a short-term layoff. After due notice was issued, a hearing was held on March 11, 2019. Claimant Maritza Maldonado did not comply with the hearing notice instructions to register a telephone number for the hearing and did not participate. Jessy Poswilko represented the employer. Exhibit 1 was received into evidence. The administrative law judge took official notice of the following Agency administrative records: continued claims (KCCO) and database readout (DBRO).

**ISSUES:**

Whether the claimant was able to work, available for work, and on a temporary layoff during the two-week period of January 27, 2019 through February 9, 2019.

Whether the claimant was temporarily laid off during the two-week period of January 27, 2019 through February 9, 2019.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Maritza Maldonado established an original claim for benefits that was effective January 27, 2019. Ms. Maldonado made weekly claims for the weeks that ended February 2 and February 9, 2019. For each week, Ms. Maldonado reported she was not working, was able to work and available for work, had no wages, and was seeking new employment. For the week that ended February 2, Ms. Maldonado reported making two job contacts. For the week that ended February 9, Ms. Maldonado reported making one job contact. Ms. Maldonado then discontinued her claim for benefits. Iowa Workforce Development set Ms. Maldonado's weekly benefit amount at \$106.00. Ms. Maldonado received \$212.00 in benefits for the two-weeks between January 27, 2019 and February 9, 2019. Primesource Staffing is not as base period employer in connection with the claim year that began for Ms. Maldonado on January 27, 2019.

However, Primesource Staffing is a recent employer. Primesource is a temporary employment agency. Ms. Maldonado began her employment with Primesource in October 2018 and performed work in a single temporary work assignment. Ms. Maldonado completed the work assignment on or about January 18, 2019. Though the assignment ended, Primesource was willing to place Ms. Maldonado in a different work assignment.

## **REASONING AND CONCLUSIONS OF LAW:**

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".

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 96.19(38)(c).

Ms. Maldonado did not participate in the appeal hearing and presented no evidence to meet her burden of proving that she was able to work, available for work, and/or temporarily laid off during the two-week period of January 27, 2019 through February 9, 2019. The evidence does not establish that Ms. Maldonado was able to work, available for work, and/or temporarily laid off during the two-week period of January 27, 2019 through February 9, 2019. Accordingly, benefits are denied for the period of January 27, 2019 through February 9, 2019.

This matter will be remanded to the Benefits Bureau for adjudication of the separation from Primesource Staffing, L.L.C.

Based on the present decision, this matter will be remanded to the Benefits Bureau for entry of an overpayment decision for the \$212.00 in benefits Ms. Maldonado received for the two weeks between January 27, 2019 and February 9, 2019.

**DECISION:**

The February 13, 2019, reference 04, decision is reversed. The claimant has not demonstrated that she was able to work, available for work and/or temporarily unemployed during the two weeks between January 27, 2019 and February 9, 2019. Benefits are denied for the period of January 27, 2019 through February 9, 2019.

This matter is remanded to the Benefits Bureau for adjudication of the separation from Primesource Staffing, L.L.C.

Based on the present decision, this matter will be remanded to the Benefits Bureau for entry of an overpayment decision for the \$212.00 in benefits the claimant received for the two-weeks between January 27, 2019 and February 9, 2019.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs