

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

THEODORE BROOKS  
2318 MOKENA TERRACE  
FORT MADISON IA 52627

PERIBELION LLC  
BIX SERVICE  
1113 AVE H  
FORT MADISON IA 52627-4543

Appeal Number: 04A-UI-02210-ET  
OC 02-08-04 R 04  
Claimant: Respondent (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 2<sup>nd</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.19-38-a & b – Total and Partial Unemployment  
Section 96.7-2-a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

The employer filed a timely appeal from a representative's decision dated February 26, 2004, reference 01, that allowed benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 18, 2004. The claimant participated in the hearing. Steve Brown, Owner and Tracy Winheim, Office Manager, participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: The claimant was hired as an installer for Bix Service October 22, 2001, and is

still employed in that capacity. The employer's business is seasonal and effective February 8, 2004, the employer began offering full-time employees 20 hours per week at \$9.60 per hour doing maintenance and clean-up work so it did not have to lay them off.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed.

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, 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.

An individual shall be deemed partially unemployed in any week in which 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.

Because the claimant has full-time base-period wages with the employer but is currently employed part-time, he is considered partially unemployed under Iowa Code Section 96.19-38 and the employer's account cannot be relieved of charges because it is not offering the same hours. Consequently, benefits are allowed.

#### DECISION:

The February 26, 2004, reference 01, decision is affirmed. The claimant is partially unemployed. Benefits are allowed, provided the claimant is otherwise eligible.

je/kjf