

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALTON D HOLDERNESS
Claimant

APPEAL NO. 17A-UI-05952-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 05/21/17
Claimant: Appellant (2)

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.7(2)A(2) – Partial Benefits

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 7, 2017, reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on June 23, 2017. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

ISSUES:

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

FINDINGS OF FACT:

The claimant currently works for Team Staffing Solutions. Claimant was placed with Heinz Corp. on or around April 24, 2017. Claimant was notified on May 19, 2017 that Heinz would be laying off its workers (including claimant) for the week beginning May 22, 2017. Claimant called employer on that date and again on May 23, 2017 to inform employer of the layoff and request an alternative assignment for that week while he'd been laid off. Employer did not have any additional work for claimant.

Throughout the entire time of the layoff claimant remained able and available for work and employer had no work available for claimant.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 § 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".

For the reasons that follow, the administrative law judge concludes the claimant was unemployed as a result of the one week layoff for the week beginning May 21, 2017. Benefits are allowed for that period of time as long as claimant is otherwise eligible.

DECISION:

The June 7, 2017, reference 01, decision is reversed. The claimant was temporarily unemployed and benefits are allowed, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn