

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

STEVEN TEEL
Claimant

DEERE & COMPANY
Employer

APPEAL 20A-UI-12961-SN-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/21/19
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On October 20, 2020, claimant filed an appeal from the October 5, 2020, reference 01, unemployment insurance decision that concluded he was not eligible for unemployment insurance benefits because he was working enough hours to be considered employed. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for December 14, 2020, at 11:00 a.m. Neither the claimant nor the employer participated. However, there is enough information in the administrative record to determine this claim.

ISSUE:

Is the claimant able to and available for work? Is claimant working too many hours to be considered unemployed or partially unemployed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant works full time for the employer. Claimant filed an initial claim for unemployment insurance benefits effective July 21, 2020. Claimant's weekly benefit amount is \$481.00. In his appeal, claimant stated he did not receive payment from the employer from June 19, 2020 to June 27, 2020. The administrative record shows claimant reported earning of \$800.00 for the week ending on June 20, 2020. Claimant did not make a continuing claim for the week of June 27, 2020.

REASONING AND CONCLUSIONS OF LAW:

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:

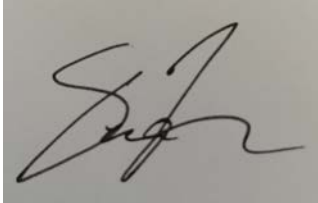
An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

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 96.1 A, subsection 38, paragraph "b", subparagraph (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".

To be partially unemployed for any given week, claimant must work less than 40 hours per week (claimant's regular full-time schedule) and earn less than \$496.00 (claimant's weekly benefit plus \$15.00). The administrative record shows claimant reported earning \$800.00 for the week ending on June 20, 2020. Claimant did not make a continuing claim for the week ending on June 27, 2020. Because claimant has earned more than his weekly benefit amount plus \$15.00 for the week ending on June 20, 2020, and did not make a continuing claim for the week ending on June 27, 2020, claimant is not totally partially unemployed for those weeks. Since claimant is not partially or totally unemployed for those weeks, the question regarding him being able and available is moot. Benefits are denied.

DECISION:

The October 5, 2020, reference 01, unemployment insurance decision denying benefits remains in effect as the administrative record shows he was working enough hours to be considered employed for the week ending June 27, 2020.

A handwritten signature in black ink, appearing to read 'Sean M. Nelson', is written over a light gray rectangular background.

Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

February 11, 2021
Decision Dated and Mailed

smn/scn