

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JAMES E LOWE
Claimant

ENGINEERED PLASTIC COMPONENTS INC
Employer

APPEAL NO. 20A-UI-08038-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (4R)

Iowa Code § 96.5-1 – Voluntary Quit
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.7(2)A(2) – Partial Benefits
Iowa Code § 96.19(38) – Total and Partial Unemployment

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 30, 2020, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 19, 2020. Claimant participated. Employer participated by Angela Janacek. Employer's Exhibits 1-2 were admitted into evidence. Both parties agreed to waive proper time for notice before the hearing as Notice of Hearing was sent on August 10 for an August 19 hearing. Both parties agreed to waive time and notice and discuss of the issues of whether claimant was able and available for work and whether claimant should be eligible for partial benefits.

ISSUES:

Whether claimant quit for good cause attributable to employer?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant currently works for employer and has been employed by employer at all times relevant to claimant's unemployment filing.

In late March employer started reducing hours for claimant and other employees. From the time claimant filed his unemployment claim, he often worked less than his regular forty hour work week. This reduction in hours continues to today's date. Employer stated that claimant's hours have varied greatly from week to week with claimant working very few hours at times and full time hours at other times.

Claimant stated that he was confused throughout his unemployment filing. He acknowledged that for many of the weeks he filed he may not have reported proper wages earned. Claimant has reported the same wages earned for most every week filed.

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".

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 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

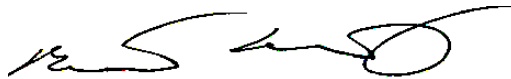
The administrative law judge holds that the evidence has established that claimant did not voluntarily quit his job and continues to be employed by employer.

Since the date of filing for unemployment, claimant has continued to be employed on partial basis. Both claimant and employer agree that claimant's filings have not been in accord with hours worked and wages earned. This matter will be remanded to the benefits bureau for examination of wages earned and reported for claimant's partial work weeks.

DECISION:

The decision of the representative dated June 30, 2020, reference 01, is modified in that there has not been a separation between the parties. Claimant is eligible to receive benefits in this matter for the periods when he is shown to be partially or temporarily unemployed since the date of April 5, 2018, as long as claimant is otherwise eligible.

This matter is remanded to the benefits bureau for determination as to the weeks when claimant is eligible to receive benefits.



Blair A. Bennett
Administrative Law Judge

August 24, 2020
Decision Dated and Mailed

bab/scn