

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KENNY R KEARNS
Claimant

MANPOWER INTERNATIONAL INC
Employer

APPEAL 20A-UI-00887-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 12/22/19
Claimant: Respondent (1R)

Iowa Code § 96.19(38) – Definitions – Total, partial, temporary unemployment
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search

STATEMENT OF THE CASE:

Employer filed an appeal from the January 23, 2020 (reference 02) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on February 14, 2020, at 11:00 a.m. Claimant did not participate. Employer participated through Gail Gonyaw, Recruiter. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant is eligible to receive partial benefits.
Whether the claimant is able to and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time team assembler beginning September 5, 2019. Employer initiated a temporary layoff from Monday, December 23, 2019 through Wednesday, January 1, 2020 due to the holidays. Claimant did not work during the layoff. Claimant returned to work on Thursday, January 2, 2020. Claimant's employment with Manpower International, Inc. ended on January 27, 2020. There has been no fact-finding interview or decision regarding claimant's separation from employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was temporarily unemployed from December 23, 2019 through January 1, 2020.

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.

Claimant did not work from December 23, 2019 through January 1, 2020 due to a temporary layoff. As such, the requirement that claimant be able to and available for work is waived for that time period. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The January 23, 2020 (reference 02) unemployment insurance decision is affirmed. Claimant was temporarily laid off by employer from December 23, 2019 through January 1, 2020. Therefore, the requirement that claimant be able to and available for work is waived. Benefits are allowed, provided claimant is otherwise eligible.

REMAND:

The separation issue is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.

Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

acw/scn