

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SIDELLE DAVIS JR
Claimant

APPEAL NO. 15A-UI-10998-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 01/18/15
Claimant: Appellant (2R)

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

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 30, 2015, reference 07, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on October 16, 2015. Claimant participated personally. Employer participated by human resources generalist Sarah Fiedler. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issues are whether claimant is still employed at the same hours and wages and partially unemployed.

FINDINGS OF FACT:

The claimant currently works for Team Staffing Solutions. Claimant was hired for full-time work to be employed at Winegard. At times, Winegard does not have enough product for production that claimant is needed to work. Claimant has been working occasional hours when Winegard calls him to work, and claimant remains able and available to work on those days when Winegard calls off work.

Claimant is not working the full-time hours contemplated when he was hired.

REASONING AND CONCLUSIONS OF LAW:

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

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, 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.

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".

Because the claimant has other base-period wages and is currently employed part time because employer has placed claimant with a company that does not have consistent full-time hours available, claimant is considered partially unemployed. Benefits are allowed.

DECISION:

The September 30, 2015, reference 07, decision is reversed. The claimant is partially unemployed and benefits are allowed, provided claimant is otherwise eligible. This matter shall be remanded to the fact finder to determine the number of hours worked, the call off dates by employer and the dates in which claimant has called into work stating he was ill or otherwise incapacitated.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/pjs