

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**CHRISTOPHER M BLANCHARD**  
Claimant

**ALPLA INC**  
Employer

**APPEAL NO. 21A-UI-01538-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/06/20**  
**Claimant: Appellant (1)**

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Iowa Code Section 96.4(3) – Able & Available  
Iowa Code Section 96.19(38) – Temporary & Partial Unemployment

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the December 9, 2020, reference 02, decision that denied benefits effective September 6, 2020, based on the deputy's conclusion that the claimant could not be considered partially unemployed. After due notice was issued, a hearing was held on February 19, 2021. The claimant participated. The employer was not available at the numbers the employer registered for the hearing and did not participate. The hearing in this matter was consolidated with the hearing in Appeal Number 20A-UI-01537-JTT. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO and WAGE-A.

**ISSUE:**

Whether the claimant was able to work and available for work beginning September 6, 2020.  
Whether the claimant was temporarily and/or partially unemployed beginning September 6 2020.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective September 6, 2020. At the time the claimant established the claim for benefits, he was still employed by ALPLA, Inc. as a full-time Team Lead. The claimant continued to work full-time in the ALPLA employment until October 19, 2020, at which time he voluntarily quit. See Appeal Number 21A-UI-01537-JTT. On September 13, 2020, the claimant made a weekly claim for the week that ended September 12, 2020. The claimant deferred further weekly claims until after he separated from the employment, but then made weekly claims for weeks that included the weeks while he was still employed full-time.

## 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 Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

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.

If a claimant individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. Iowa Code section 96.7(2)(a)(2)(a).

Because the claimant was employed full-time at the time he established the original claim for benefits that was effective September 6, 2020 and continued to be employed full-time until October 19, 2020, he cannot be deemed "available" for unemployment insurance eligibility purposes. Nor can the claimant be deemed temporarily or partially unemployed during that. Based on this determination, the claimant is not eligible for benefits for the period of September 6, 2020 through the benefit week that ended October 17, 2020.

**DECISION:**

The December 9, 2020, reference 02, decision is affirmed. The claimant was employed full-time, did not meet the "availability" requirement, and was temporarily or partially unemployed during the period September 6, 2020 through the benefit week that ended October 17, 2020. The claimant is not eligible for benefits for that period.



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James E. Timberland  
Administrative Law Judge

March 1, 2021  
Decision Dated and Mailed

jet/lj