

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DEBRA CURRY
Claimant

APPEAL NO. 20A-UI-13202-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KOHL'S DEPARTMENT STORES INC
Employer

OC: 03/29/20
Claimant: Appellant (2)

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours
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 October 19, 2020, reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on December 17, 2020. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate. Claimant's exhibit A was admitted into evidence

ISSUES:

Whether claimant is still employed at the same hours and wages?
Whether claimant is eligible to receive partial benefits?
Whether claimant is able and available for work?

FINDINGS OF FACT:

The claimant currently works for Kohl's, a base period employer, part time under the same terms and conditions as contemplated in the original contract of hire. Claimant works in the cash office and with customer service. Claimant has worked in this position for approximately 25 years.

On or around July 26, 2020 claimant informed employer that she'd previously had direct contact with a person infected with Covid (her mother). Employer stated to claimant that she would have to leave work and would have to quarantine for two weeks before returning. At no time during this period did claimant have symptoms of Covid and at no time was claimant not able and available to return to work if employer had allowed her to do so.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was temporarily unemployed for the period between July 27, 2020 and August 9, 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.

Because the claimant has established consistent part time employment, and employer prevented claimant from working during a two week period when claimant was able and available to work, claimant was temporarily unemployed for the period between July 27, 2020 and August 9, 2020. Benefits are allowed.

DECISION:

The October 19, 2020, reference 01, decision is reversed. The claimant was temporarily unemployed for the period between July 27, 2020 and August 9, 2020 and benefits are allowed, provided claimant is otherwise eligible.



Blair A. Bennett
Administrative Law Judge

December 30, 2020
Decision Dated and Mailed

bab/mh