

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**WILLIAM S PLANK**  
Claimant

**APPEAL 22A-UI-06337-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/28/21  
Claimant: Appellant (5R)**

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Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search  
Iowa Code § 96.1A(37) – Total, partial, temporary unemployment

**STATEMENT OF THE CASE:**

On March 12, 2022, William Plank (claimant/appellant) filed a timely appeal from the Iowa Workforce Development (“IWD”) decision dated March 9, 2022 (reference 01) that determined claimant was no longer temporarily unemployed and must seek work to remain eligible for benefits.

A telephone hearing was held on April 21, 2022 at 1 p.m. Claimant participated personally. This matter was not properly scheduled and as a result a hearing notice was not properly issued. Claimant waived notice such that the matter could be heard concurrently with 22A-UI-06823-AD-T, which was properly scheduled and noticed for hearing April 21, 2022 at 1 p.m.

Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Is the claimant able to and available for work?
- II. Is the claimant totally, partially, or temporarily unemployed?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for Rural Recycling Grinding around July 2015 or 2016. Claimant is still attached to that employer. Claimant’s position with employer is seasonal in nature. He was laid off due to a lack of work beginning around December 1, 2021.

Claimant filed weekly claims for benefits from the benefit week ending December 4, 2021 and continuing through the benefit week ending March 26, 2022. He reported earning wages in the amount of \$540.00 for the week ending December 4, 2021. He reported no wages earned in the other weeks filed. Claimant’s weekly benefit amount was \$497.00. Claimant expects to be recalled to work around April 25, 2022, weather permitting.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated March 9, 2022 (reference 01) that determined claimant was no longer temporarily unemployed and must seek work to remain eligible for benefits is MODIFIED with no change in effect.

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 96.1A(37) 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 was not totally, partially, or temporarily unemployed in the benefit week ending December 4, 2021, as he earned wages in excess of his weekly benefit amount plus \$15.00 in that week.

Claimant was temporarily unemployed beginning with the benefit week ending December 11, 2021. Claimant ceased to be temporarily unemployed and became totally unemployed after the

benefit week ending January 1, 2022. This is because an individual cannot be temporarily unemployed for a period exceeding four consecutive weeks.

Claimant was then totally unemployed from the week ending January 8, 2022 through the benefit week ending March 26, 2022, as he performed no work during this period.

An individual who is temporarily unemployed or partially unemployed while still attached to their regular employer need not be able to work, available for work, and earnestly and actively seeking work during each week filed in order to be eligible for benefits in that week. However, an individual who is totally unemployed must meet those requirements in order to be eligible for benefits each week.

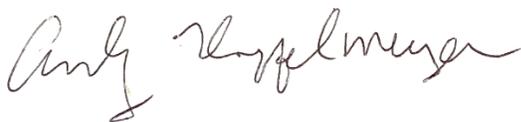
The administrative law judge does not find it appropriate to decide for the first time on appeal whether claimant was able to work, available for work, and earnestly and actively seeking work and thus eligible for benefits during the weeks he was not partially or temporarily unemployed. That matter is therefore remanded to the Benefits Bureau for a fact-finding investigation and determination.

**DECISION:**

The decision dated March 9, 2022 (reference 01) that determined claimant was no longer temporarily unemployed and must seek work to remain eligible for benefits is MODIFIED with no change in effect. It is modified to clarify that claimant ceased to be temporarily unemployed after the benefit week ending January 1, 2022.

**REMAND:**

This matter is remanded to the Benefits Bureau for fact-finding investigation and determination regarding whether claimant was eligible for benefits during the weeks he was not partially or temporarily unemployed.



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Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
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April 28, 2022  
Decision Dated and Mailed

abd/abd