

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

FLOYD E WRIGHT
Claimant

ACE INTERNATIONAL INC
Employer

APPEAL 20A-UI-10811-AD-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 06/28/20
Claimant: Respondent (2)

Iowa Code § 96.19(38) – Total, partial unemployment
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages
Iowa Code § 96.7(2)a(2) – Charges – Same base period employment

STATEMENT OF THE CASE:

On August 27, 2020, Ace International Inc. (employer/appellant) filed a timely appeal from the August 24, 2020 (reference 01) unemployment insurance decision that allowed benefits beginning June 28, 2020 based on a finding claimant was able and available during a short-term layoff.

A telephone hearing was held on October 22, 2020. The parties were properly notified of the hearing. Floyd Wright (claimant/respondent) did not register a number for the hearing. Employer participated by District Manager Terry Wolfgram.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?
- III. Is the claimant still employed at the same hours and wages? Is the employer's account subject to charge?

FINDINGS OF FACT:

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

Claimant began working for employer on November 4, 2018. Claimant is still employed by employer as a full-time shift manager. Claimant did not work from June 27 until July 8 due to illness. At that time claimant returned to his usual position with no change in hours or pay.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the August 24, 2020 (reference 01) unemployment insurance decision that allowed benefits beginning June 28, 2020 based on a finding claimant was able and available during a short-term layoff is REVERSED.

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.

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".

Claimant is not eligible for benefits during the period in question. This is because he was unable and unavailable for work due to illness and, subsequently, was employed to such an extent that he had removed himself from the job market. Benefits are denied and employers account shall not be charged.

DECISION:

The August 24, 2020 (reference 01) unemployment insurance decision that allowed benefits beginning June 28, 2020 based on a finding claimant was able and available during a short-term layoff is REVERSED. Claimant is not eligible for benefits due to being unable and/or unavailable for work during the relevant period.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

October 26, 2020
Decision Dated and Mailed

abd/scn

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.