

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRENDA J HEIDEMANN**  
Claimant

**APPEAL NO. 09A-UI-03005-E2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**VOLT MANAGEMENT CORP**  
Employer

**OC: 12/21/08**  
**Claimant: Appellant (4)**

Iowa Code Section 96.4(3) – Able and Available  
Iowa Code Section 96.19(38)a & b – Total and Partial Unemployment

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated February 13, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 19, 2009. Claimant participated personally. Employer participated by Matt Mausser.

**ISSUE:**

The issue is whether claimant meets the definition of being considered unemployed.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant currently works for employer as an accounting clerk full-time for Volt Management Corp. From December 24, 2008 through January 4, 2009, the employer had a plant shut-down and did not have full time work available for the claimant as contemplated in the original contract of hire. The claimant received holiday pay for December 25, 2008 and January 1, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was partially unemployed from December 24, 2008 through January 4, 2009.

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, 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.

Because the claimant is currently employed regular full-time hours, she is not considered partially unemployed. Benefits may be allowed based upon reporting of weekly earnings.

**DECISION:**

The February 13, 2009, reference 01, decision is modified. The claimant was partially unemployed and benefits are allowed, provided she is otherwise eligible.

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James Elliott  
Administrative Law Judge

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Decision Dated and Mailed

jfe/pjs