

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BEAU MUELLER
Claimant

GENERAL DYNAMICS INFO TECH
Employer

APPEAL 21A-UI-08989-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/14/21
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Code § 96.19(38) – Total, partial unemployment

STATEMENT OF THE CASE:

On March 31, 2021, Beau Mueller (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated March 25, 2021 (reference 01) that denied benefits as of February 14, 2021 based on a finding claimant was still employed for the same hours and wages.

A telephone hearing was held on June 9, 2021. The parties were properly notified of the hearing. Claimant participated personally. General Dynamics Information Tech (employer/respondent) did not register a number for the hearing or participate.

Claimant's Exhibit A was admitted into evidence. 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? Is the claimant an on-call worker?

FINDINGS OF FACT:

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

Claimant began working for employer on October 7, 2013. Claimant was employed as a full-time engineer associate. Claimant last performed work for employer on February 16, 2021. Claimant was laid off at that time due to a lack of work. Claimant has been able and available for work and searching for work since that time.

Claimant filed a claim for benefits each week from the benefit week ending February 20, 2021 through the benefit week ending June 5, 2021. He reported earnings in the amount of \$352.00 in

the week ending February 20, 2021. He reported earnings in the amount of \$999.00 for the week ending March 6, 2021. He had no earnings in the other weeks filed. His weekly benefit amount is \$493.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated March 25, 2021 (reference 01) that denied benefits as of February 14, 2021 based on a finding claimant was still employed for the same hours and wages is REVERSED. Claimant is able to and available for work and is eligible for benefits as set forth below.

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.

Claimant was laid off due to a lack of work effective February 16, 2021. Claimant filed a claim for benefits each week from the benefit week ending February 20, 2021 through the benefit week ending June 5, 2021. He reported earnings in the amount of \$352.00 in the week ending

February 20, 2021. He is therefore partially unemployed and eligible for benefits in that week. He reported earnings in the amount of \$999.00 for the week ending March 6, 2021. He is therefore not totally, partially, or temporarily unemployed in that week and ineligible for benefits in that week. Claimant was totally unemployed and eligible for benefits in each other week filed.

DECISION:

The decision dated March 25, 2021 (reference 01) that denied benefits as of February 14, 2021 based on a finding claimant was still employed for the same hours and wages is REVERSED. Claimant is able to and available for work and is eligible for benefits as set forth above.



Andrew B. Duffelmeyer
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June 22, 2021
Decision Dated and Mailed

abd/scn