

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KYLE L LETTS
Claimant

APPEAL 20A-UI-10792-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SUPREME STAFFING INC
Employer

OC: 06/21/20
Claimant: Respondent (4-R)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions
Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment

STATEMENT OF THE CASE:

On August 26, 2020, Supreme Staffing, Inc. (employer) filed an appeal from the August 21, 2020, reference 02, unemployment insurance decision that allowed benefits effective June 21, 2020, based upon the determination Kyle L. Letts (claimant) was on a short-term layoff and considered able to and available for work. After due notice was issued, a telephone hearing was held on October 21, 2020. The claimant did not respond to the hearing notice and did not participate. The employer participated through Mike Riehl, Office Manager. The Employer's Exhibit 1 was admitted into the record. The administrative law judge took official notice of the administrative record, specifically the claimant's claim and wage histories.

ISSUES:

Is the claimant totally, partially, or temporarily unemployed?
Was the claimant able to and available for work effective June 21, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has worked for the employer since October 15, 2008, and has been available to work 40 hours a week. The claimant was assigned to a job until June 20, 2020, when the employer's client laid off employees due to a lack of work. The claimant contacted the employer on June 22 seeking reassignment, but no work was available due to the COVID-19 pandemic.

On July 27, the employer offered the claimant a job to start on July 29. The claimant accepted the job. He reported to the assignment for two days and then never returned. He also did not contact the employer. Whether the claimant's separation qualifies him for unemployment insurance benefits effective August 2, has not been investigated or adjudicated by the Benefits Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was temporarily unemployed from June 21 through August 1, and he is considered able to and available for work during that time. Benefits are allowed, provided he is otherwise eligible.

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". [Emphasis added.]

Iowa Code section 96.19(38)c provides:

Definitions.

38. Total and partial unemployment

...

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.

The claimant was temporarily unemployed from June 21 through August 1. The claimant was laid off from his assignment and the employer did not have work for him. The claimant is considered able to and available for work during that timeframe. Benefits are allowed, provided he is otherwise eligible.

Whether the claimant is eligible for benefits effective August 2, based on his separation from employment and his ability to and availability for work, is remanded to the Benefits Bureau for a fact-finding interview and determination.

DECISION:

The August 21, 2020, reference 02, unemployment insurance decision is modified in favor of the appellant. The claimant was temporarily unemployed due to a lack of work from June 21 through August 1, 2020. Benefits are allowed, provided he is otherwise eligible.

REMAND:

Whether the claimant is eligible for benefits effective August 2, based on his separation from employment and his ability to and availability for work, is remanded to the Benefits Bureau for a fact-finding interview and determination.



Stephanie R. Callahan
Administrative Law Judge

October 26, 2020
Decision Dated and Mailed

src/scn