

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TONYA K MENNES**  
Claimant

**APPEAL 22A-UI-06761-S2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 02/06/22**  
**Claimant: Respondent (1)**

Iowa Code § 96.1A(37) – Total and Partial Unemployment  
Iowa Code § 96.4(3) – Ability to and Availability for Work – Layoff  
Iowa Admin. Code r. 871-24.23(26) – Availability Disqualifications Same Hours and Wages  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

**STATEMENT OF THE CASE:**

The employer filed an appeal from the March 4, 2022, (reference 01) unemployment insurance decision that allowed benefits based on a finding that claimant was on a short-term layoff. The parties were properly notified of the hearing. A telephone hearing was held on April 27, 2022. Claimant participated personally. Employer Casey's Marketing Co. participated through manager Caleb Williams. The administrative law judge took official notice of the administrative file.

**ISSUES:**

Is the claimant eligible for total, temporary or partial unemployment benefits?  
Is claimant employed for the same hours and wages?  
Is the claimant able to and available for work?  
Is the employer's account subject to charges?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has been employed as a part-time kitchen employee at Casey's since October 2019. She worked in the Maxwell location. On February 3, 2022, a fire broke out at the Maxwell store. Claimant was able to work her shifts on February 4 and 5, 2022, but on February 6, 2022, a larger fire broke out at the Maxwell store. The store closed down completely and there was no work available for claimant. Claimant was able to and available for work if the location would have been open and operating. On February 26, 2022, claimant began working at the Nevada Casey's.

Claimant filed an original claim for benefits effective February 6, 2022. She filed weekly continued claims through February 26, 2022.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes.

Iowa Code § 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.

Iowa Code section 96.7(2)a(2)(a), (b), and (c) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

(b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to

accept suitable work with that employer, but shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(c) The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

Iowa Code § 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 Admin. Code r. 871-24.1(113)a provides:

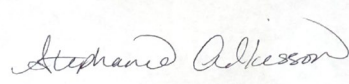
Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

In this case, the claimant was temporarily unemployed pursuant to Iowa Code § 96.1A(37). After her temporary unemployment, claimant credibly testified that she was able to and available for work. As such, benefits are allowed, provided the claimant remained otherwise eligible. This employer's account may be subject to charges.

**DECISION:**

The March 4, 2022, (reference 01) unemployment insurance decision is affirmed. The claimant was temporarily unemployed. Benefits are allowed effective February 6, 2022, provided the claimant remains otherwise eligible



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

May 11, 2022  
Decision Dated and Mailed

sa/scn