

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KEDRICK LUOGON**  
Claimant

**APPEAL NO. 19A-UI-08283-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AEROTEK INC**  
Employer

**OC: 08/25/19**  
**Claimant: Appellant (1R)**

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours  
Iowa Code § 96.4-3 – Able and Available  
Iowa Code § 96.7(2)A(2) – Partial Benefits

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated October 14, 2019, reference 05, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on November 13, 2019. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

**ISSUES:**

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

**FINDINGS OF FACT:**

The claimant is currently unemployed after quitting his most recent employment with employer. Prior to claimant's quit, claimant was laid off from work for a one-week period of time for the week ending September 7, 2019. After that week, claimant was brought back to work at the same wages and hours he'd previously worked. After a couple more weeks, claimant determined that he and his wife – who was also employed at Aerotek – would not be able to get to work as she worked a different shift and with one car they both couldn't get to work. Claimant then decided he didn't wish to travel from Waterloo to Cedar Rapids to work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was not partially unemployed for the period between September 8-21, 2019. Claimant is not eligible to receive benefits for those weeks.

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.

Benefits are denied for the weeks of September 8-21, 2019. As this was a full-time job and claimant was brought back after the one-week layoff, claimant is not entitled to benefits after the layoff.

**DECISION:**

The October 14, 2019, reference 05, decision is affirmed as claimant is not entitled to benefits for the weeks of September 8-21, 2019.

This matter is remanded to the fact finder for determination as to whether claimant is eligible for benefits after the October 11, 2019 date when the claimant voluntarily quit employment.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

bab/scn