

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LONNY CYZA**  
Claimant

**VERMEER MANUFACTURING COMPANY  
INC**  
Employer

**APPEAL 16A-UI-11896-JP-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/18/16**  
**Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(26) – Same Hours and Wages  
Iowa Code § 96.19(38)b – Partial Unemployment

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the November 2, 2016, (reference 02) unemployment insurance decision that denied benefits as of October 9, 2016. The parties were properly notified about the hearing. A telephone hearing was held on November 18, 2016. Claimant participated. Employer participated through human resources business partner, Cornie Van Walbeek.

**ISSUES:**

Is the claimant able to and available for work?

Is the claimant still employed at the same hours and wages?

Is the claimant eligible to receive partial benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began his employment with the employer on November 12, 2012. Claimant works full-time as a manufacturing engineer. The employer had a one week plant shutdown the week beginning October 2, 2016. Claimant returned to work for the employer full-time on October 10, 2016 and continues to work full-time for the employer. Claimant's hours and wages have remained consistent, except for the one week plant shutdown. Claimant did not receive any wages from the employer during the one week plant shutdown.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant is not partially unemployed.

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. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. Claimant has been employed with the employer since November 12, 2012. The employer had a one week plant shutdown for the week beginning October 2, 2016. Claimant returned to work for the employer full-time at the same hours and wages on October 10, 2016. Because claimant returned to work full-time on October 10, 2016 at the same hours and wages, he is currently employed and is not considered available for work as of the week beginning October 9, 2016. Accordingly, benefits are denied as of October 9, 2016.

**DECISION:**

The November 2, 2016, (reference 02) unemployment insurance decision is affirmed. Claimant is not partially unemployed or available for work and benefits are denied as of October 9, 2016.

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Jeremy Peterson  
Administrative Law Judge

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Decision Dated and Mailed

jp/rvs