

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CARRIE L STEVENS

Claimant

APPEAL 18A-UI-02239-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TECHNICAL TRAINING INC

Employer

OC: 12/24/17

Claimant: Appellant (2)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.3(5) – Benefit Duration - Business Closing

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 14, 2018, (reference 03) unemployment insurance decision that denied the request to redetermine the claim based upon a business closure. This is not a business closing issue. The parties waived notice of Iowa Code § 96.4(3). After due notice was issued, a telephone conference hearing was held on March 14, 2018. Claimant participated. Employer participated through human resources generalists Shannon Cain and Alyssa Arcos.

ISSUES:

Is the claimant able to work and available for work effective December 24, 2017?
Does the claimant meet the definition of being considered partially unemployed?
If so, is the employer's account liable for potential charges?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The employer has assigned claimant to work full-time at John Deere and the plant closed for the holidays for the one week-ending December 30, 2017. Claimant notified the employer of the holiday plant shutdown. She received no wages, holiday or vacation pay for that week. She returned to work on January 3, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the business closing issue does not apply to this fact situation, the claimant is temporarily unemployed, and this employer is not relieved of benefit charges.

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.

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.

Because the employer and its client had no work for claimant during the week of the holiday shutdown, she is considered unemployed for the week at issue, is eligible for benefits provided she is otherwise eligible, and this employer may be liable for benefit charges.

DECISION:

The February 14, 2018, (reference 03) unemployment insurance decision is reversed. The business closing issue does not apply to this fact situation. The claimant is partially unemployed and benefits are allowed, provided she is otherwise eligible. The account of the employer may be charged.

NOTE TO EMPLOYER:

To change the mailing address of record, access your account at:

<https://www.myiowauui.org/UITIPTaxWeb/>.

Helpful information about using this site may be found at:

<http://www.iowaworkforce.org/ui/uiemployers.htm> and

<http://www.youtube.com/watch?v= mpCM8FGQoY>

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs