

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL J TRENTZ
Claimant

WALMART INC.
Employer

APPEAL 21A-UI-22191-AD-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 09/05/21
Claimant: Appellant (2R)

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Code § 96.1A(37) – Total, partial unemployment

STATEMENT OF THE CASE:

On October 8, 2021, Michael Trentz (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated October 5, 2021 (reference 02) that denied benefits as of September 5, 2021 based on a finding claimant was still employed in his job.

A telephone hearing was held on December 1, 2021. The parties were properly notified of the hearing. Claimant participated personally. Walmart Inc. (employer/respondent) did not participate.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?
- III. Is the claimant still employed at the same hours and wages?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer in August 2019. Claimant last performed work for employer on September 6, 2021. Claimant was discharged on September 7, 2021. He filed claims for benefits in the weeks ending September 11 and September 18, 2021. He was able and available for work and searching for work during those weeks. He reported wages in the amount of \$207.00 in the week ending September 11 and in the amount of \$0.00 in the week ending September 18. His weekly benefit amount is \$498.00. Claimant's separation from employment has not yet been the subject of a fact-finding interview and determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated October 5, 2021 (reference 02) that denied benefits as of September 5, 2021 based on a finding claimant was still employed in his job is REVERSED. Claimant is eligible for benefits as set forth below.

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 96.1A(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.

The administrative law judge finds claimant was partially unemployed and eligible for benefits in the week ending September 11, 2021 and totally unemployed and eligible for benefits in the week ending September 18, 2021. Benefits are allowed in those weeks, provided claimant is not otherwise disqualified or ineligible.

This matter must be remanded to the Department for a fact-finding interview and determination as to whether claimant's separation from employment was disqualifying.

DECISION:

The decision dated October 5, 2021 (reference 02) that denied benefits as of September 5, 2021 based on a finding claimant was still employed in his job is REVERSED. Claimant is eligible for benefits as set forth above.

REMAND:

This matter is remanded to the Benefits Bureau for an initial investigation and determination on the separation issue, with proper notice and right of appeal to be provided.



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

December 8, 2021
Decision Dated and Mailed

abd/abd