

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**RICHARD M RASMUSSEN**  
Claimant

**VANTAGE REHAB INC**  
Employer

**APPEAL NO. 22A-UI-03971-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/29/20**  
**Claimant: Appellant (2)**

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  
Iowa Code § 96.19(38) – Total and Partial Unemployment

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated January 27, 2022, reference 03, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on March 15, 2022. Claimant participated personally. Employer participated by Teresa Eisenhower-Moyer.

**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 worked for Vantage Rehab, a base period employer, part time since some time after his hire as a PRN physical therapist. Claimant stated that he was hired as a PRN worker, and shifted to part time at some point when employer guaranteed him 25 hours. Claimant quit other employment to do this, but maintained his private massage practice. Employer said she never remembered guaranteeing claimant any amount of hours. Claimant filed for unemployment benefits often as his hours would dip below 25 hours per week, but would only receive benefits when he made little enough not to be over his weekly benefit amount.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was partially unemployed.

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.

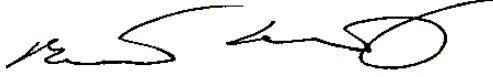
(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

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.

Because the claimant's regular full week is deemed to have been 25 hours, and claimant applied for benefits when his hours dipped below that amount, claimant is partially unemployed and eligible to receive benefits when he did not work his promised hours and earned less than his weekly benefit amount + \$15.00. Benefits are allowed for those weeks after March 14, 2021 when he has not earned more than his weekly benefit amount plus \$15.00.

**DECISION:**

The January 27, 2022, reference 03, decision is reversed. The claimant is partially unemployed for the period after March 14, 2021 and benefits are allowed, provided claimant is otherwise eligible.



---

Blair A. Bennett  
Administrative Law Judge

March 31, 2022  
Decision Dated and Mailed

bab/mh