

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DAVID E BUTLER
Claimant

MONTEZUMA MFG DIV OF DIEOMATIC IN
Employer

APPEAL 21A-UI-22811-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/11/20
Claimant: Appellant (4R)

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On October 14, 2021, David Butler (claimant/appellant) filed an appeal from the October 6, 2021 (reference 01) unemployment insurance decision that denied benefits as of August 22, 2021 based on a finding he was unable to perform work due to illness.

A telephone hearing was held on December 6, 2021. The parties were properly notified of the hearing. The claimant participated personally. Montezuma Mfg Div of Dieomatic Inc (employer/respondent) participated by HR Generalist Jessica Henry. Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

FINDINGS OF FACT:

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

Claimant's first day of employment was September 15, 2014. Claimant is still employed as a full-time production operator.

Claimant was temporarily laid off due to a lack of work in the weeks ending October 17 and 24, 2020. He was employed to such an extent as to be unavailable for work in the weeks ending October 31 and November 7, 2020.

Claimant was partially unemployed and earned \$304.16 in the week ending November 14, 2020. He was temporarily laid off for the week ending November 21, 2020.

Claimant was temporarily unemployed in the weeks ending January 2 and 9; February 20, April 24 through June 12; July 24; September 18; and October 9 through November 13, 2021. Claimant has not yet received benefits for the weeks ending September 18 and October 9 through November 13, 2021.

Claimant was unable to work in the week ending August 28, 2021, due to being too ill to work. Claimant filed a claim for benefits in each of the weeks listed above. He was able to and available for work in the weeks he was laid off due to a lack of work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the October 6, 2021 (reference 01) unemployment insurance decision that denied benefits as of August 22, 2021 based on a finding he was unable to perform work due to illness is MODIFIED in favor of appellant. He 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".

The administrative law judge finds claimant is eligible for benefits in each week listed above except for the weeks ending October 31 and November 7, 2020 and August 28, 2021. He was either employed to such an extent as to be unavailable for work or was ill and unable to work in those weeks. He was partially unemployed in the week ending November 14, 2020.

DECISION:

The October 6, 2021 (reference 01) unemployment insurance decision that denied benefits as of August 22, 2021 based on a finding he was unable to perform work due to illness is MODIFIED in favor of appellant. He is eligible for benefits as set forth above.

REMAND:

This matter is REMANDED to the Department for issuance of benefits during the weeks claimant was eligible but has not yet received benefits, including calculation of the benefit amount for the week of partial unemployment, and a determination as to whether claimant was overpaid benefits in the weeks ending October 31 and November 7, 2020.



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

January 10, 2022
Decision Dated and Mailed

abd/scn

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.