

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEAN BUSS
Claimant

**JOHN DEERE CONSTRUCTION
EQUIPMENT**
Employer

APPEAL 22A-UI-00184-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/01/21
Claimant: Appellant (4)**

Iowa Code § 96.5(4) – Labor Disputes
Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.1A(37) – Total, Partial, Temporary Unemployment

STATEMENT OF THE CASE:

On November 29, 2021, Dean Buss (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated November 23, 2021 (reference 03) that disqualified claimant from unemployment insurance benefits from October 14 through November 20, 2021 based on a finding claimant's unemployment during that period was due to a work stoppage caused by a labor dispute.

A telephone hearing was held on January 21, 2022. The parties were properly notified of the hearing. The claimant participated personally. Deere & Company (employer/respondent) did not participate. Official notice was taken of the administrative record.

ISSUES:

- I. Is the claimant disqualified from benefits due to a labor dispute?
- II. Was the claimant able to and available for work?
- III. Was the claimant totally, partially, or temporarily unemployed?

FINDINGS OF FACT:

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

Claimant filed claims for benefits in the weeks ending August 7, September 18, and October 23, 2021 as well as the week ending January 1, 2022. Claimant was laid off due to a lack of work in the week ending August 7, 2021 and was totally unemployed in that week. Claimant was found to be ineligible for benefits in the week ending September 18, 2021 in a prior decision. That decision is final and remains in force. See 21A-UI-00183-AD-T. Claimant was unemployed during a work stoppage caused by a labor dispute in the week ending October 23, 2021. Claimant was participating in, financing, and directly interested in the labor dispute which caused the stoppage of work in that week. Claimant was partially unemployed in the week ending January 1, 2022 and earned less than his weekly benefit amount plus \$15.00 in that week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated November 23, 2021 (reference 03) that disqualified claimant from unemployment insurance benefits from October 14 through November 20, 2021 based on a finding claimant's unemployment during that period was due to a work stoppage caused by a labor dispute is MODIFIED in favor of appellant. Benefits are allowed as set forth below.

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.

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 96.5(4) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

4. Labor disputes.

a. For any week with respect to which the department finds that the individual's total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which the individual is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the department that:

1. The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

2. The individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.

b. Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.

Claimant was laid off due to a lack of work in the week ending August 7, 2021 and was totally unemployed in that week. Claimant is therefore eligible for benefits in that week.


Claimant was found to be ineligible for benefits in the week ending September 18, 2021 in a prior decision. That decision is final and remains in force. See 21A-UI-00183-AD-T.

Claimant was unemployed during a work stoppage caused by a labor dispute in the week ending October 23, 2021. Claimant was participating in, financing, and directly interested in the labor dispute which caused the stoppage of work in that week. Claimant is disqualified for benefits in that week.

Claimant was partially unemployed in the week ending January 1, 2022 and earned less than his weekly benefit amount plus \$15.00 in that week. He is therefore eligible for benefits in that week.

DECISION:

The decision dated November 23, 2021 (reference 03) that disqualified claimant from unemployment insurance benefits from October 14 through November 20, 2021 based on a finding claimant's unemployment during that period was due to a work stoppage caused by a labor dispute is MODIFIED in favor of appellant. Benefits are allowed as set forth above.



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

February 10, 2022
Decision Dated and Mailed

abd/abd