

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JERMANE A BROWN**

Claimant

**APPEAL 21A-UI-12246-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BRIDGESTONE AMERICAS TIRE**

Employer

**OC: 01/31/21**

**Claimant: Appellant (1)**

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Iowa Code § 96.1A(37) – Definitions – Total, partial unemployment

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search

Iowa Code § 96.7(2)A(2) – Charges – Same base period employment

Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the April 30, 2021 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on July 26, 2021, at 11:00 a.m. Claimant participated. Employer did not participate. Claimant's Exhibit A was admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant is totally, partially or temporarily unemployed.

Whether claimant is able to and available for work.

Whether claimant is still employed at the same hours and wages.

Whether employer's account is subject to charge.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began employment with Bridgestone Americas Tire as a full-time Service Driver on April 30, 2018. Claimant's regular full-time schedule is 40 hours per week.

From February 1, 2021 through February 11, 2021, claimant performed no work for employer. Claimant was absent because employer required him to quarantine pursuant to its Covid-19 protocol. Claimant was not ill during the period of quarantine. Claimant received compensation from employer in the amount of \$500.00 per week during the mandatory quarantine period.

From March 5, 2021 through March 10, 2021, claimant performed no work for employer. Claimant was absent due to illness. Claimant's symptoms were such that he could not perform his job duties. Claimant tested negative for Covid-19. Claimant received no compensation from employer during his absence due to illness.

Other than these two periods of absence, claimant has worked his regular hours and received his regular wages.

Claimant filed an initial claim for unemployment insurance benefits effective January 31, 2021. Claimant's weekly benefit amount is \$484.00.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes:

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 96.1A, subsection 37, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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 Admin. R. 871-24.23(26) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis difference from the contract for hire, such claimant cannot be considered partially unemployed.

Iowa Code section 96.7(2)a(2) 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.

To be partially unemployed for any given week, claimant must work less than 40 hours per week (claimant's regular full-time schedule) and earn less than \$499.00 (claimant's weekly benefit plus \$15). From January 31, 2021 through February 13, 2021, claimant did not work his regular full-time hours. Claimant was paid \$500.00 each week, which is greater than \$499.00. Because claimant earned more than his weekly benefit amount plus \$15.00 each week from January 31, 2021 through February 13, 2021, claimant was not partially unemployed. Benefits are denied.

From March 5, 2021 through March 10, 2021, claimant performed no work and received no wages. Therefore, claimant was totally unemployed. Because claimant was totally unemployed, he is required to be able to and available for work. Claimant has the burden of

proving that he was able to and available for work. Claimant was absent due to illness and, thus, not able to or available for work. Accordingly, benefits are denied.

During all other periods of time since claimant filed his initial claim for benefits, claimant worked his regular hours and was paid his regular wages. Therefore, claimant was not unemployed. Benefits are denied.

**DECISION:**

The April 30, 2021 (reference 02) unemployment insurance decision is affirmed. From January 31, 2021 through February 3, 2021, claimant did not work his regular hours but earned more than his weekly benefit amount plus \$15.00; therefore, claimant was not partially unemployed and is not eligible for benefits. From March 5, 2021 through March 10, 2021, claimant was totally unemployed but not able to or available for work; therefore, claimant is not eligible for benefits. For all other periods of time, claimant was not unemployed. Benefits are denied effective January 31, 2021.



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August 2, 2021  
Decision Dated and Mailed

acw/scn