

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JAMIEL CULPS**  
Claimant

**APPEAL 21A-UI-17515-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEAM STAFFING SOLUTIONS INC**  
Employer

**OC: 05/23/21  
Claimant: Respondent (2)**

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Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search  
Iowa Code § 96.1A(37) – Total, partial unemployment  
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages  
Iowa Code § 96.7(2)a(2) – Charges – Same base period employment

**STATEMENT OF THE CASE:**

On August 9, 2021, Team Staffing Solutions Inc (employer/appellant) filed a timely appeal from the July 30, 2021 (reference 03) unemployment insurance decision that allowed benefits beginning May 23, 2021 based on a finding claimant was able and available for work and working when work was available.

A telephone hearing was held on September 30, 2021. The parties were properly notified of the hearing. Jamiel Culps (claimant/respondent) was not available at the number registered at the time of hearing. Employer participated by Risk Manager Sarah Fielder. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Is the claimant able to and available for work?
- II. Is the claimant totally, partially, or temporarily unemployed?
- III. Is the claimant still employed at the same hours and wages? Is the employer's account subject to charge? Is the claimant an on-call worker?

**FINDINGS OF FACT:**

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

Employer is a staffing agency. Claimant's most recent assignment was from May 10, 2021 until July 2, 2021. Claimant resigned at that time to accept work elsewhere. Claimant filed a claim for benefits in the weeks ending May 29 and July 31, 2021. There was no reduction in available work in the week ending May 29, 2021. Employer has no knowledge as to claimant's ability and availability or work in the week ending July 31, 2021.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the July 30, 2021 (reference 03) unemployment insurance decision that allowed benefits beginning May 23, 2021 is REVERSED.

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.

Iowa Admin. Code 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 reduce workweek

basis different from the contract for hire, such claimant cannot be considered partially unemployed.

Claimant filed a claim for benefits in the weeks ending May 29 and July 31, 2021. There was no reduction in available work in the week ending May 29, 2021, meaning claimant was still employed in the same way and ineligible for benefits in that week.

Employer has no knowledge as to claimant's ability and availability or work in the week ending July 31, 2021, as he had accepted work elsewhere at that time. Because claimant did not participate in the hearing, he has not met his burden of establishing that he was able and available for work in that week. Benefits are therefore denied during the weeks filed.

**DECISION:**

The July 30, 2021 (reference 03) unemployment insurance decision that allowed benefits beginning May 23, 2021 is REVERSED. Claimant is not eligible for benefits in the weeks filed.



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

October 4, 2021  
Decision Dated and Mailed

abd/mh

**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>.