

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAVID K SHEPHERD
Claimant

MC WANE INC
Employer

APPEAL 21A-UI-00626-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/22/19
Claimant: Respondent (1)**

Iowa Code § 96.19(38) – Total, Partial, Temporary Unemployment
Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the December 10, 2020 (reference 02) unemployment insurance decision that found claimant was eligible for unemployment benefits because he was on a short-term layoff. The parties were properly notified of the hearing. A telephone hearing was held on February 9, 2021. The claimant did not participate. The employer participated through witness Annie Thomas. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUE:

Was the claimant totally, partially, or temporarily unemployed?
Was 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 began working for this employer on April 3, 2013. He continues to work for the employer at this time. He works full-time as a molding operator.

From October 4, 2020 through October 10, 2020, the claimant was on a temporary layoff due to his production line being shut down due to lack of work. The claimant resumed back to his normal full-time duties the following week of October 11, 2020.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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", subparagraph (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 § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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.

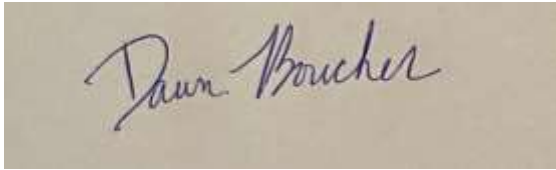
c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, **lack of work**, or **emergency** from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

(emphasis added).

Claimant was temporarily laid off due to lack of work for one week from October 4, 2020 through October 10, 2020. Benefits are allowed for the one-week of temporary unemployment of October 4, 2020 through October 10, 2020, provided the claimant is otherwise eligible. See Iowa Code § 96.19(38).

DECISION:

The December 10, 2020 (reference 02) unemployment insurance decision is affirmed. The claimant was on a short-term layoff due to lack of work from October 4, 2020 through October 10, 2020 and benefits are allowed for that one-week period, provided the claimant was otherwise eligible.

A rectangular box containing a handwritten signature in blue ink. The signature is written in a cursive style and reads "Dawn Boucher".

Dawn Boucher
Administrative Law Judge

February 22, 2021
Decision Dated and Mailed

db/ol