

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LISA L STEENHOEK**  
Claimant

**APPEAL 22A-UI-00714-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GILBERT COMMUNITY SCHOOL DIST**  
Employer

**OC: 10/31/21  
Claimant: Appellant (4R)**

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Iowa Code § 96.1A(37) – Total, partial unemployment  
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search

**STATEMENT OF THE CASE:**

On December 9, 2021, Lisa Steenhoek (Hilton) (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated December 6, 2021 (reference 02) that denied benefits as of October 31, 2021 based on a finding claimant was still employed for the same hours and wages.

A telephone hearing was held on February 3, 2022. The parties were properly notified of the hearing. Claimant participated personally. Gilbert Community School District (employer/respondent) participated by School Business Official Gail Hopkins.

Claimant's Exhibit 1 was admitted. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. 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 began working for employer on August 17, 2021. Claimant was employed full-time as an intermediate special education associate, Monday through Friday. Claimant last worked for employer on November 2, 2021. Claimant was discharged at that time.

Claimant filed a claim for benefits each week from the benefit week ending November 6, 2021 and continuing through the benefit week ending November 27, 2021. Claimant reported wages earned in the amount of \$180.00 for the week ending November 6, 2021. She earned no wages in the other weeks filed. Claimant was able to work, available for work, and searching for work after the separation from employer. Claimant's weekly benefit amount is \$114.00.

The Department has not yet issued a decision regarding whether the separation from employment was disqualifying.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the decision dated December 6, 2021 (reference 02) that denied benefits as of October 31, 2021 based on a finding claimant was still employed for the same hours and wages is MODIFIED in favor of appellant. Claimant 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".

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.

The administrative law judge finds claimant is not eligible for benefits in the week ending November 6, 2021. This is because claimant earned in excess of her weekly benefit amount plus \$15.00 in that week. Claimant is eligible for benefits in the other weeks filed, as she was totally unemployed and able to work, available for work, and searching for work in those weeks.

While this decision finds claimant is eligible for benefits in several of the weeks filed, claimant may still be disqualified from benefits due to the separation from employment. This matter must therefore be remanded to the Department for a fact-finding interview and issuance of a decision on that matter.

**DECISION:**

The decision dated December 6, 2021 (reference 02) that denied benefits as of October 31, 2021 based on a finding claimant was still employed for the same hours and wages is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth above.

**REMAND:**

This matter is REMANDED to the Department for a fact-finding interview and determination on the separation issue, with proper notice and right of appeal to be provided.



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Andrew B. Duffelmeyer  
Administrative Law Judge  
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February 22, 2022  
Decision Dated and Mailed

abd/abd