

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

JON P CORONADO

Claimant

APPEAL NO: 19A-UI-04408-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC

Employer

OC: 04/28/19

Claimant: Respondent (1)

Section 96.4-3 – Able and Available for Work

Section 96.19(38) – Total, Partial, or Temporarily Unemployed

STATEMENT OF THE CASE:

The employer filed a timely appeal from the May 21, 2019, reference 04, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 25, 2019. The claimant did not respond to the hearing notice and did not participate in the hearing. Josi Chambers, Front Office Coordinator, participated in the hearing on behalf of the employer.

ISSUE:

The issues are whether the claimant is able and available for work and whether he was on a short-term layoff.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a full-time assembly employee at Express Services, last assigned to Winnebago Industries September 10, 2018. The claimant was on a temporary layoff from April 29 through May 3, 2019, before returning to work May 6, 2019, and failing to call or show up for work May 7, 8 and 9, 2019. Consequently, the assignment ended May 9, 2019. The claimant contacted the employer May 13, 2019, about another assignment and that was the last interaction between the parties.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able and available for work during a short-term layoff.

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", 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 § 96.19(38) 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 claimant was on a short-term layoff from April 29 through May 3, 2019. He is considered able and available and temporarily unemployed during that layoff. Therefore, benefits must be allowed.

DECISION:

The May 21, 2019, reference 04, decision is affirmed. The claimant is able and available for work during the short-term layoff from April 29 through May 3, 2019. Benefits are allowed effective April 29, 2019.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn