

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

MARQUES J BAILEY
Claimant

APPEAL NO: 19A-UI-00862-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MASONITE CORPORATION
Employer

**OC: 10/14/18
Claimant: Appellant (4)**

Section 96.4-3 – Able and Available for Work
Section 96.4-3 – Same Hours and Wages

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 23, 2019, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 13, 2019. The claimant participated in the hearing. Darla Gabrielson, Human Resources Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire.

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 production III for Masonite Corporation March 21, 2016, and continues to be employed in that capacity. There was a plant shutdown due to weather part of January 25 and January 28 through 31, 2019.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not employed at the same hours and wages as contemplated in the original contract of hire the week ending February 2, 2019.

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

The claimant was hired as a full-time production III employee. There has been no separation from his full-time employment but there was a plant shutdown the week ending February 2, 2019. Consequently, the claimant is eligible for benefits the week ending February 2, 2019.

DECISION:

The January 23, 2019, reference 02, decision is modified in favor of the appellant. The claimant is still employed at the same hours and wages as in his original contract of hire but there was a plant shutdown the week ending February 2, 2019. The claimant is eligible for benefits the week ending February 2, 2019, provided he is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn