

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIANNA L SEGO-RANSOM
Claimant

APPEAL NO. 20A-UI-08306-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

J&D RESTAURANTS INC
Employer

OC: 03/29/20
Claimant: Respondent (2R)

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.7(2)A(2) – Partial Benefits
Iowa Code § 96.19(38) – Total and Partial Unemployment

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated July 15, 2020, reference 01, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on August 26, 2020. Claimant participated personally. Employer participated by Alison McAninch. Claimant failed to respond to the hearing notice and did not participate.

ISSUES:

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

FINDINGS OF FACT:

The claimant worked for employer from at or around January 1, 2017 – September 24, 2018. Claimant voluntarily quit on October 1, 2018. Employer did not know the reason for claimant's voluntary quit. At the time of the quit, employer still had work available for claimant.

It is unknown if claimant is able and available for work at this time.

Examining claimant's wage history indicates that claimant has held other employment since the date of job separation in this matter and has amassed 10x her weekly benefit amount since the date of separation from employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant became totally unemployed from employer and appears to have requalified for benefits.

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 96.19(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.

Iowa Admin. Code r. 871-23.43(4)a provides in part:

(4) Supplemental employment.

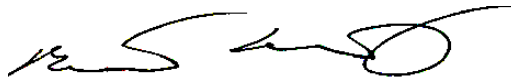
a. An individual, who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer, continues to be eligible for benefits as long as the individual is receiving the

same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges....

Benefits are denied as to this employer, but claimant may have requalified for benefits either through additional wages subsequently earned. This matter is remanded to the fact finder for a determination as to claimant's eligibility.

DECISION:

The July 15, 2020, reference 01, decision is reversed. The claimant is totally unemployed as per this employer and is not eligible for benefits. This matter is remanded to the fact finder for a determination as to claimant's eligibility.



Blair A. Bennett
Administrative Law Judge

August 28, 2020
Decision Dated and Mailed

bab/scn