

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ANTONETTE GREER**  
Claimant

**ABCM CORPORATION**  
Employer

**APPEAL 21A-UI-13166-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/18/21  
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.1A(37) – Total, Partial, and Temporary Unemployment  
Iowa Admin. Code r. 871-24.23(26) – Same Hours/Wages

**STATEMENT OF THE CASE:**

On May 28, 2021, the claimant, Antonette Greer, filed an appeal from the May 20, 2021 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was still employed with the employer at the same hours and wages as contemplated in her contract of hire and was not eligible for benefits. The parties were properly notified of the hearing. A telephonic hearing was held at 4:00 p.m. on Friday, August 6, 2021. The claimant, Antonette Greer, participated. The employer, ABCM Corporation, did not register a participant and did not participate in the hearing. No exhibits were offered or admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Is the claimant totally, partially, or temporarily unemployed?  
Is the claimant able to work and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began her employment with ABCM Corporation on June 23, 2009. For most of her employment, claimant was employed as a part-time bed-maker. In 2020, due to COVID-19, claimant switched positions and became a laundry employee.

Claimant works 20 hours per week. She has always worked 20 hours per week. Claimant voluntarily restricts the number of hours she works in order to remain eligible for public assistance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant is not eligible for unemployment insurance benefits.

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 § 96.1A(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.

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.

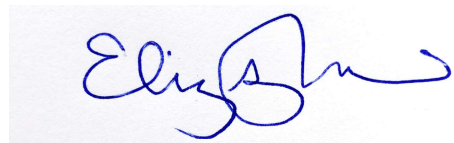
(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

Under Iowa Employment Security Law, an individual must be totally or partially unemployed to be eligible for benefits. Iowa Code § 96.1A(37). Total unemployment is when someone has received no wages and performed no services during any given week. *Id.* In this case, the claimant has performed services and earned wages for each week she has claimed benefits. She is not totally unemployed.

The next question is whether she is partially unemployed. In order to be partially unemployed, an individual must be laid off from full-time employment or working less than his or her regular full-time work week. *Id.* If an individual is employed in a part-time position working the same hours and wages as contemplated at hire, he or she cannot be considered partially unemployed. Iowa Admin. Code r. 871-24.23(26). The claimant was hired into and requested a part-time position. She has worked part-time hours during her entire employment. She continues to work for the employer. As the claimant is working in a part-time job in the same hours and wages contemplated at hire, the claimant is not partially unemployed and is not eligible for benefits.

**DECISION:**

The May 20, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant is neither totally nor partially unemployed and is not eligible for benefits. Therefore, benefits must be withheld.



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Elizabeth A. Johnson  
Administrative Law Judge  
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August 11, 2021  
Decision Dated and Mailed

lj/kmj