

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**EULALIO ALVAREZ**  
Claimant

**WEST LIBERTY FOODS LLC**  
Employer

**APPEAL 20A-UI-09880-AD-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 04/19/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.19(38) – Total, partial unemployment  
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search  
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages  
Iowa Code § 96.7(2)a(2) – Charges – Same base period employment

**STATEMENT OF THE CASE:**

On August 17, 2020, Eulalio Alvarez (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated August 14, 2020 (reference 01) that denied benefits as of April 19, 2020 based on a finding claimant was not partially unemployed.

A telephone hearing was held on October 2, 2020 at 8:30 a.m. The parties were properly notified of the hearing. Claimant participated personally and with the assistance of a Spanish language interpreter. West Liberty Foods LLC (employer/respondent) participated by HR Supervisor Monica Dyer.

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?
- III. Is the claimant still employed at the same hours and wages? Is the employer's account subject to charge?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer on December 29, 2003. Claimant is still employed by employer. Claimant is employed full-time as a boxing team lead. Claimant works approximately 45 hours per week. However, a slowdown in production due to the pandemic resulted in claimant working fewer hours than normal in several weeks. Claimant worked 41.75 hours in the week

ending April 11, 2020; 34.84 hours in the week ending April 18; and 44.44 hours in the week ending April 25. Claimant returned to his normal work after that timeframe.

Claimant's hourly wage is \$17.42. Claimant earned \$727.28 in the week ending April 11; 2020; \$606.91 in the week ending April 18; and \$774.14 in the week ending April 25. Claimant's weekly benefit amount is \$591.00.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the decision dated August 14, 2020 (reference 01) that denied benefits as of April 19, 2020 based on a finding claimant was not partially unemployed is AFFIRMED.

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 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".

Claimant is not totally, partially, or temporarily unemployed. While he was working fewer hours than usual for several weeks, he did not earn less than the weekly benefit amount plus \$15.00 in any of those weeks. Benefits are denied.

**DECISION:**

The decision dated August 14, 2020 (reference 01) that denied benefits as of April 19, 2020 based on a finding claimant was not partially unemployed is **AFFIRMED**. Claimant is not totally, partially, or temporarily unemployed. Benefits are denied.



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Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 478-3528

October 5, 2020  
Decision Dated and Mailed

abd/sam

**Note to Claimant:**

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.