

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICKY J SORENSEN**  
Claimant

**APPEAL NO. 07A-UI-04067-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COMMUNICATION DATA SERVICE INC**  
Employer

**OC: 04/01/07 R: 01  
Claimant: Appellant (2)**

Section 96.4(3) – Able & Available  
Iowa Code section 96.19(38)(b) – Partially Unemployed

**STATEMENT OF THE CASE:**

Ricky Sorensen filed a timely appeal from the April 18, 2007, reference 01, decision that notified Mr. Sorensen that he was no longer deemed temporarily unemployed and that he was required to seek work and keep a record of his job contacts. After due notice was issued, a hearing was held on May 14, 2007. Mr. Sorensen participated. Sharon Kroger, Human Resources and Senior Administration Manager, represented the employer. The administrative law judge received Department Exhibit D-1 into evidence.

**ISSUES:**

Whether the claimant is subject to the able and available and job search requirements set forth in Iowa Code section 96.4(3).

Whether the claimant is temporarily unemployed.

Whether the claimant is partially unemployed.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Ricky Sorensen commenced his employment with Communication Data Service (CDS) on July 24, 2006 and worked as a full-time Telephone Customer Service Representative until March 16, 2007, when the employer reduced his work hours due to a lack of work. There was no break in the employment and Mr. Sorensen has continued to work the reduced hours the employer has made available to him. Aside from the reduction in hours, there has been no other change in the employment.

In response to the reduction in hours, Mr. Sorensen established a claim for unemployment insurance benefits that was effective April 1, 2007. On April 12, the employer submitted a protest form in response to the notice of claim. In the remarks section of the protest, an employer representative indicated that Mr. Sorensen had been laid off and was not job attached.

**REASONING AND CONCLUSIONS OF LAW:**

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".

An individual shall be deemed *partially unemployed* in any week in which, 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. Iowa Code section 96.19(38)(b).

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 96.19(38)(c).

The evidence in the record indicates that since Mr. Sorensen established his claim for benefits, he has at no point been temporarily unemployed. The evidence further establishes that Mr. Sorensen has not been laid off or experienced any other separation from the employment. The evidence indicates that Mr. Sorensen has been partially unemployed since he established a claim for benefits and, therefore, is exempt from the work search requirements set out in Iowa Code section 96.4(3). Mr. Sorensen is eligible for benefits, provided he is otherwise eligible.

**DECISION:**

The claims representative's April 18, 2007, reference 01 is reversed. The claimant has been partially unemployed since he established claim for benefits and, therefore, is exempt from the work search requirements set out in Iowa Code section 96.4(3).

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs