

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**BOBBY L SIGLER**  
Claimant

**CONNER ATHLETIC PRODUCTS INC**  
Employer

**APPEAL 17A-UI-02586-JCT**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/29/17**  
**Claimant: Appellant (2R)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.7(2)a – Same Base Period Employment  
Iowa Admin. Code r. 871-24.1(113) – Definitions – Separations

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the March 1, 2017, (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 31, 2017. The claimant participated personally. The employer did not register a phone number with the Appeals Bureau and did not participate. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Does the claimant meet the definition of being considered partially unemployed?  
Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was hired to work full-time as an over-the-road truck driver, beginning in August 2016. From February 3, 2017, through March 23, 2017, the employer did not have full-time work available for the claimant as contemplated in the original contract of hire. The claimant was informed that he was on a temporary layoff with an unknown recall date. The claimant was able and available to work any shift from February 3, 2017, through March 23, 2017 and did not decline any available work.

Effective March 23, 2017, permanent separation ensued when the claimant quit the employment to accept other employment. That separation has not yet been determined at the claims level.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was temporarily unemployed February 3, 2017, through March 23, 2017.

Iowa Admin. Code r. 871-24.1 provides:

Definitions. Unless the context otherwise requires, the terms used in these rules shall have the following meaning. All terms which are defined in Iowa Code chapter 96 shall be construed as they are defined in Iowa Code chapter 96.

24.1(113) *Separations*. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. *Layoffs*. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

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 § 96.19(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, 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.

An individual shall be deemed partially unemployed in any week in which 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.

The claimant was hired to work full-time, but full-time hours were not offered to him from February 3, 2017, through March 23, 2017, because of a lack of work. The claimant was not permanently separated from the employer, but told that he was on a temporary layoff due to business reasons. Because the claimant is not currently employed under the same hours and wages as contemplated at hire, he is considered temporarily unemployed. Benefits may be allowed based upon reporting of weekly earnings. For whatever period the employer is not offering the same wages and hours as contemplated in the contract or terms of hire, it may be liable for benefit charges to its account.

**REMAND:** The permanent separation issue effective March 23, 2017, as delineated in the findings of fact, is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

**DECISION:**

The March 1, 2017, (reference 02) unemployment insurance decision is reversed. The claimant is temporarily unemployed and benefits are allowed, provided he is otherwise eligible. He is required to report gross wages earned for each week of benefits claimed. The employer's account may be liable for charges.

**REMAND:** The permanent separation issue effective March 23, 2017, as delineated in the findings of fact, is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

jlb/rvs