

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANA C LEARD

Claimant

APPEAL 20A-UI-00340-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEE ZEE INC

Employer

OC: 12/08/19

Claimant: Appellant (4)

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 January 11, 2020, Dana Leard (claimant/appellant) filed a timely appeal from the January 3, 2020 (reference 01) unemployment insurance decision that determined she was not eligible to receive unemployment insurance benefits because she was still employed in her job at the same hour and wages. Benefits were denied as of December 8, 2019.

A telephone hearing was held on January 30, 2020 at 3 p.m. The parties were properly notified of the hearing. Claimant participated personally. Dee Zee Inc. (employer/respondent) did not register a number at which to be reached for the hearing and did not participate.

Official notice was taken of the administrative record, including claimant's payment and wage history on the department's information database.

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? Is the claimant an on-call worker?

FINDINGS OF FACT:

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

Claimant began working for employer in January 2015. Claimant is still employed by employer. Claimant is employed full-time as a quality control technician. Claimant hours are 7:30 a.m. to 4:00 p.m., Monday through Friday. Claimant's immediate supervisor is Brianne Whitaker.

Claimant was unemployed from December 23, 2019 until January 6, 2020 due to a plant shutdown and accompanying temporary layoff. Claimant returned to work full-time work with employer on January 6, 2020.

Claimant filed her claim prematurely, filing it with an effective date of December 8, 2019. She attempted to file a claim for the benefit week ending December 28, 2019, but was unable to file a claim due to being locked out. Claimant then re-filed effective December 29, 2019. She received benefits in the amount of \$312.00 for the benefit week ending January 4, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the January 3, 2020 (reference 01) unemployment insurance decision is MODIFIED in favor of appellant. Claimant is eligible for benefits effective December 22, 2019, provided she meets all other eligibility requirements.

I. Is the claimant totally, partially, or temporarily unemployed?

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.

Claimant was unemployed from December 23, 2019 until January 6, 2020 due to a plant shutdown and accompanying layoff. She returned to full-time work with employer on January 6, 2020. Because claimant was temporarily unemployed during the relevant period, it is unnecessary to address the other issues noticed. Claimant is eligible for benefits during that period, provided she meets all other eligibility requirements.

DECISION:

The January 3, 2020 (reference 01) unemployment insurance decision is MODIFIED in favor of appellant. Claimant is eligible for benefits effective December 22, 2019, provided she meets all other eligibility requirements.

Andrew B. Duffelmeyer
Administrative Law Judge

Decision Dated and Mailed

abd/rvs