

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

HERBERT A LANGLEY
Claimant

APPEAL NO. 19A-UI-08296-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 09/08/19
Claimant: Appellant (4)**

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.4(3) – Work Search Requirement
Iowa Code Section 96.19(38)(b) – Partial Unemployment

STATEMENT OF THE CASE:

Herbert Langley filed a timely appeal from the October 15, 2019, reference 02, decision warned him he was required to make a minimum of two job contacts each week he claimed unemployment insurance benefits. The decision stated that Mr. Langley had reported zero job contacts when he made his claim for the week that ended October 12, 2019. The decision warned Mr. Langley that he could be disqualified for benefits for any future week during which he claimed benefits but made few than two job contacts. After due notice was issued, a hearing was held on November 13, 2019. Mr. Langley participated. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: Continued Claims (KCCO) and Database Readout (DBRO).

ISSUES:

Whether Mr. Langley was able to work and available for work within the meaning of the law during the benefit week that ended October 12, 2019.

Whether Mr. Langley met the work search requirement during the benefit week that ended October 12, 2019.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Herbert Langley established an original claim for benefits that was effective September 8, 2019. Iowa Workforce Development set Mr. Langley's weekly benefit amount at \$481.00. Mr. Langley made consecutive weekly claims for the five weeks between September 8, 2019 and October 12, 2019. Mr. Langley then discontinued his claim in light of securing new, full-time employment. Mr. Langley began new employment at the Sioux City Hotel and Conference Center on Sunday, October 6, 2019. Mr. Langley's wage in the new employment was \$14.00 per hour. The work involved driving a van. During the first week of the employment, the employer only had about 32 hours of work for Mr. Langley. Mr. Langley worked all the hours the

employer had for him. Mr. Langley's gross wages for the week totaled \$450.00. Mr. Langley did not have other employment during the week that ended October 12, 2019. When Mr. Langley made his weekly unemployment insurance claim for the week that ended October 12, 2019, he reported that he worked that week, that he was able to work and available for work, that he had not refused any work, that he had zero employer contacts for the week, and that he had earned \$450.00 in wages for the week. Based on this amount being less than the weekly benefit amount plus \$15.00 (less than \$496.00), Iowa Workforce Development disbursed a reduced amount of benefits, \$151.00 to Mr. Langley for the week.

Mr. Langley made a limited attempt to search for work during the week that ended October 12, 2019. That effort was limited to attempting to access and search the Iowa Workforce Development (IWD) online job posting board. On Wednesday, October 9, and on Thursday, October 10, Mr. Langley attempted to access the IWD job posting board, but was unable to access the board. On Friday, October 11, Mr. Langley was able to access the IWD posting board but unable to scroll down to look at potential jobs. Mr. Langley did not attempt to search for work that week through any other means.

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).

The evidence in the record establishes that Mr. Langley was able to work, available for work, and partially unemployed during the week that ended October 12, 2019. Because Mr. Langley was partially unemployed during the week that ended October 12, 2019, he was not required to search for other employment that week. Mr. Langley had just started new full-time employment on October 6, 2019, but the new employer did not have full-time hours for Mr. Langley during that first week of the employment. Mr. Langley was physically and mentally able to perform full-time work for the new employer. Mr. Langley was available for full-time work and worked all the hours the new employer had for him during the week that ended October 12, 2019. Mr. Langley's \$450.00 in wages for the week that ended October 12 were less than his \$481.00 weekly benefit amount plus \$15.00. Mr. Langley was eligible for the \$151.00 in benefits he received for the week that ended October 12, 2019, provided he met all other eligibility requirements.

DECISION:

The October 15, 2019, reference 02, decision is modified in favor of the appellant. During the benefit week that ended October 12, 2019, the claimant was able to work, available for work, and partially unemployed. Because the claimant was partially unemployed, the claimant was not subject to the work search requirement during the week that ended October 12, 2019. The claimant was eligible for benefits for the week that ended October 12, 2019, provided he met all other eligibility requirements.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/scn