

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WILLIAM N BANNIER
Claimant

WEST LIBERTY FOODS LLC
Employer

**APPEAL 21A-UI-08957-AD-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/05/20
Claimant: Respondent (4)**

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search

STATEMENT OF THE CASE:

On March 26, 2021, West Liberty Foods LLC (employer/appellant) filed a timely appeal from the March 18, 2021 (reference 01) unemployment insurance decision that allowed benefits beginning April 5, 2020 based on a finding claimant was able and available for work during a layoff.

A telephone hearing was held on June 15, 2021. The parties were properly notified of the hearing. William Bannier (claimant/respondent) participated personally. Employer participated by HR Supervisor Monica Dyar.

Employer's Exhibit 1 admitted. 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?

FINDINGS OF FACT:

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

Claimant began working for employer on September 23, 2019. Claimant is still employed by employer. Claimant was laid off from April 7, 2020 through May 15, 2020 due to the pandemic. He was recalled to full-time work on May 18, 2020. He missed a few days of work in the ensuing weeks due to illness. Full-time work has been available to him since that time. Claimant filed a claim for benefits each week from the benefit week ending April 11, 2020 through the benefit week ending June 13, 2020. Claimant did work 8.77 hours in the week ending April 11, 2020. He earned wages less than his weekly benefit amount plus \$15.00 that week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the March 18, 2021 (reference 01) unemployment insurance decision that allowed benefits beginning April 5, 2020 based on a finding claimant was able and available for work during a layoff is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth below.

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".

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.

The administrative law judge finds claimant was partially unemployed and eligible for benefits in the week ending April 11, 2020, as he worked less than the regular full-time week and earned less than his weekly benefit amount plus \$15.00. He was totally unemployed and eligible for benefits from the week ending April 18, 2020 through the week ending May 16, 2020, as he was laid off due to the pandemic during that time.

Claimant was not unemployed in the remaining weeks filed, as full-time work was available to him beginning May 18, 2020. Any loss of work after that time was due to claimant being unable or available for work.

DECISION:

The March 18, 2021 (reference 01) unemployment insurance decision that allowed benefits beginning April 5, 2020 based on a finding claimant was able and available for work during a layoff is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth above.



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

June 28, 2021
Decision Dated and Mailed

abd/ol

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 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>.