

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**BRENT S LOFSTEDT**  
Claimant

**DEERE & COMPANY**  
Employer

**APPEAL NO. 19A-UI-06750-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/14/19**  
**Claimant: Appellant (5)**

Iowa Code Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

Brent Lofstedt filed a timely appeal from the August 22, 2019, reference 02, decision that denied benefits for the week that ended August 8, 2019, based on the deputy's conclusion that Mr. Lofstedt was employed that week and worked sufficient hours to render him ineligible for benefits under the availability requirement. After due notice was issued, a hearing was held on September 18, 2019. Mr. Lofstedt participated. Janice Gordon represented the employer. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO and KCCO.

**ISSUES:**

Whether Mr. Lofstedt was available for work within the meaning of the law during the benefit week that ended August 3, 2019.

Whether Mr. Lofstedt was partially unemployed and/or temporarily unemployed during the benefits week that ended August 3, 2019.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Brent Lofstedt is employed by Deere & Company as a full-time assembler at the employer's facility in Waterloo. Mr. Lofstedt's usual work hours are 7:00 a.m. to 3:30 p.m., Monday through Friday. Mr. Lofstedt established an original claim for benefits that was effective July 14, 2019. Iowa Workforce Development set Mr. Lofstedt's weekly benefit amount at \$500.00. After Mr. Lofstedt set up the unemployment insurance claim, he did not make weekly claims. Mr. Lofstedt filed an additional/reactivated claim effective July 28, 2019, but did not make weekly claims. Mr. Lofstedt was off work during the entire week of July 21-27, 2019. During the next week, Mr. Lofstedt was on temporary layoff for Monday, July 29 and Tuesday, July 30, 2019. The employer paid Mr. Lofstedt "single day layoff" wages of \$134.71 for each of the two layoff days. Mr. Lofstedt returned to work on Wednesday, July 31, 2019 and performed 24 hours of work for the employer Wednesday through Friday, July 31 through August 2, 2019. The employer paid Mr. Lofstedt \$479.80 in wages for the 24 hours of work.

## 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).

Iowa Administrative Code rule 871-24.2.(1)(g) provides as follows:

(g). No continued claim for benefits shall be allowed until the individual claiming benefits has completed a continued claim or claimed benefits as otherwise directed by the department.

(1) The weekly continued claim shall be transmitted not earlier than 8 a.m. on the Sunday following the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on Friday following the weekly reporting period.

Because Mr. Lofstedt did not make any weekly claims after he established the original claim for benefits that was effective July 14, 2019 or after the additional claim that was effective July 28, 2019, Mr. Lofstedt is not eligible for benefits for the period of July 14, 2019 through August 3, 2019 and the administrative law judge need not further consider the availability issue or whether Mr. Lofstedt was temporarily or partially unemployed during any of the affected weeks. Benefits are denied for the period of July 14, 2019 through August 3, 2019.

**DECISION:**

The August 22, 2019, reference 02, is modified as follows. The claimant did not make any weekly claims for the period of July 14, 2019 through August 3, 2019 and, therefore, is not eligible for benefits for that period.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs