

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**KEVIN D GREVE**  
Claimant

**MENARD INC**  
Employer

**APPEAL 21A-UI-04554-AD-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/06/20**  
**Claimant: Respondent (5)**

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search  
Iowa Code § 96.19(38) – Total, partial unemployment

**STATEMENT OF THE CASE:**

On February 3, 2020, Menard Inc. (employer/appellant) filed a timely appeal from the Iowa Workforce Development decision dated January 27, 2021 (reference 02) that allowed benefits beginning December 13, 2020 based on a finding claimant was able and available for work during a short-term layoff.

A telephone hearing was held on April 9, 2021. The parties were properly notified of the hearing. Kevin Greve (claimant/respondent) participated personally. Employer participated by General Manager Lance Gesell.

Employer's Exhibits 1 -3 were admitted. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Is the claimant able to and available for work?
- II. Is the claimant totally, partially, or temporarily unemployed?

**FINDINGS OF FACT:**

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

Claimant began working for employer on January 28, 2008. Claimant is still employed by employer. Claimant notified employer that he had tested positive for COVID-19 and employer held him out of work as a precaution from December 14, 2020 until December 29, 2020. Claimant was not too ill to work during this time. Claimant was employed as usual before and after this period.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the decision dated January 27, 2021 (reference 02) that allowed benefits beginning December 13, 2020 based on a finding claimant was able and available for work during a short-term layoff is MODIFIED with no change in effect.

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 able and available for work and temporarily unemployed in the weeks ending December 19 and 26, 2020. Employer held claimant out of work during this time as a precaution. However, he was not too ill to work. He is therefore eligible for benefits during these weeks, provided he otherwise meets all eligibility requirements.

Because the department has determined not to charge employers for periods of pandemic-related unemployment and claimant's unemployment was due to the pandemic, employer's account will not be charged for benefits paid.

**DECISION:**

The January 27, 2021 (reference 02) that allowed benefits beginning December 13, 2020 based on a finding claimant was able and available for work during a short-term layoff is MODIFIED with no change in effect. Claimant is eligible for benefits in the weeks ending December 19 and 26, 2020, so long as he otherwise meets all eligibility requirements.



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April 14, 2021  
Decision Dated and Mailed

abd/ol