

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RUSSELL SCHUELLER
Claimant

APPEAL NO. 19A-UI-06709-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**JOHN DEERE CONSTRUCTION
EQUIPMENT**
Employer

**OC: 07/21/19
Claimant: Appellant (2)**

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.19(38)(c) – Temporarily Unemployed

STATEMENT OF THE CASE:

Russell Schueller filed a timely appeal from the August 22, 2019, reference 01, decision that denied benefits for the week of July 21-27, 2019, based on the deputy's conclusion that Mr. Schuller was on vacation that week and not available for work. After due notice was issued, a hearing was held on September 18, 2019. Mr. Schueller participated. Mark Onderick represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Numbers 19A-UI-06710-JTT and 19A-UI-06711-JTT. Department Exhibits D-1 through D-4 were received into evidence. \

ISSUES:

Whether the claimant able to work and available for work within the meaning of the law during the benefit week that ended July 27, 2019.

Whether the claimant was temporarily and/or partially unemployed during the benefit week that ended July 27, 2019.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Russell Schueller is employed full-time by John Deere Construction Equipment. During the period of July 21, 2019 through August 4, 2019, the employer was on temporary shut-down and Mr. Schueller was temporarily laid off. Mr. Schueller remained able to work and available for full-time work with the employer during the shutdown period, but the employer did not have any work for Mr. Schueller during that period. The employer recalled Mr. Schueller to the employment on August 5, 2019 and Mr. Schueller returned to the employment at that time. Mr. Schueller did not request vacation for the week of July 21-27, 2019 or for another other period of the shutdown. Rather, the employer's policies required that the employer disburse and that Mr. Schueller use accrued vacation benefits for the first 40-hour work week during the shutdown.

In response to the temporary layoff, Mr. Schueller established an original claim for unemployment insurance benefits that was effective July 21, 2019. Mr. Schueller made a weekly claim for the benefit week that ended July 27, 2019 and received \$481.00 in benefits for

that week. Mr. Schueller did not make a weekly claim for the week that ended August 3, 2019 and did not receive unemployment insurance benefits for that week.

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 *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).

During the week that ended July 27, 2019, Mr. Schueller was able to work, available for work, but temporarily unemployed. Mr. Schueller is eligible for benefits for the week that ended July 27, 2019, *provided he meets all other eligibility requirements*.

Because the lower decision from which Mr. Schueller appealed was specific to the benefit week that ended July 27, 2019, and because Mr. Schueller did not make a weekly claim for the week that ended August 3, 2019, this decision need not address the week that ended August 3, 2019.

DECISION:

The August 22, 2019, reference 01, decision is reversed. The claimant was able to work, available for work, but temporarily unemployed during the benefit week that ended July 27, 2019. The claimant is eligible for benefits for the week that ended July 27, 2019, *provided he meets all other eligibility requirements*. This decision should be considered in conjunction with the decision in Appeal Number 19A-UI-06710-JTT, regarding vacation pay.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs