

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**DONOVAN X DENNIS**  
Claimant

**APPEAL 19A-UI-01514-DG-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DAVENPORT COMMUNITY SCH DIST**  
Employer

**OC: 01/27/19  
Claimant: Respondent (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated February 15, 2019, (reference 01) that held claimant able to and available for work. After due notice, a hearing was scheduled for and held on March 6, 2019. Claimant participated personally. Employer participated by Jaime Kroeger, Human Resources Contract Specialist.

**ISSUES:**

Is the claimant able to and available for work?  
Is the claimant partially unemployed?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant began working as a full-time security officer in August of 2016. Claimant is paid an hourly wage. Claimant is not paid during any periods of time when the school is closed for inclement weather or other emergencies.

Claimant was able and available to work his regular hours for the period from January 27, 2019 to February 9, 2019 but was scheduled to work fewer hours than he was regularly scheduled in the base period wage history with this employer because school was closed during winter storms. Claimant has reported gross wages each week during which benefits were claimed.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is partially unemployed and is able to work and available for work.

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.

Since employer did not provide claimant with regular full-time hours as established during the base period wage history, partial benefits are allowed.

**DECISION:**

The February 15, 2019, (reference 01) unemployment insurance decision is affirmed. The claimant is able to work and available for work effective January 27, 2019. Benefits are allowed, provided he is otherwise eligible.

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Duane L. Golden  
Administrative Law Judge

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Decision Dated and Mailed

dlg/scn