

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

THERSA D WILLIAMS

Claimant

APPEAL 21A-UI-09974-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THOMAS L CARDELLA ASSOCIATES INC

Employer

OC: 02/21/21

Claimant: Appellant (2R)

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

The claimant/appellant, Thersa D. Williams, filed an appeal from the April 6, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 23, 2021. The claimant participated personally. The employer registered Myka Gilchrist, who was unavailable when called. Two attempts were made to reach the employer witness, who did not have voicemail set up on the registered line. The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant totally, partially, or temporarily unemployed effective February 21, 2021?

Is the claimant able to and available for work?

Is the claimant still employed at the same hours and wages?

Is the employer’s account subject to charge?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began employment August 21, 2017 and last worked as a full-time sales supervisor until she was discharged on February 22, 2021. Claimant’s permanent separation has yet to be addressed by the Benefits Bureau.

Claimant opened her claim based upon her permanent separation with this employer. She has not worked for any other employer and remains totally unemployed. She is searching for full-time employment, to work remotely, in sales, which is consistent with her experience. She has no other limitations to employment and has not refused any offers of work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is totally unemployed and is able to and available for work effective February 21, 2021.

Iowa Code § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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.

Claimant permanently separated from employment effective February 22, 2021. She has not worked for this employer or any other employer since that date. Therefore, claimant is considered totally unemployed.

For an individual to be eligible to receive benefits, she must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

Claimant credibly testified she has been conducting weekly job search contacts and is otherwise able and available for work since her February 22, 2021 separation. Therefore, benefits are allowed, provided she is otherwise eligible.

The issue of claimant's permanent separation on February 22, 2021 is remanded to the Benefits Bureau for an initial investigation and decision.

DECISION:

The unemployment insurance decision dated April 6, 2021, (reference 01) is REVERSED. Claimant was totally unemployed effective February 22, 2021. The claimant has been able and

available for work since establishing her claim for unemployment benefits with an effective date of February 21, 2021. Benefits are allowed, provided she is otherwise eligible.

REMAND:

The issue of claimant's permanent separation on February 22, 2021 is remanded to the Benefits Bureau for an initial investigation and decision.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

July 06, 2021
Decision Dated and Mailed

jlb/ol