

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

DANIEL F PERLOWSKI
Claimant

APPEAL NO. 15A-UI-04580-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LOWE'S HOME CENTERS INC
Employer

**OC: 12/14/14
Claimant: Appellant (2)**

Iowa Code § 96.19-38-a & b – Total and Partial Unemployment
Iowa Code § 96.7-2-a(2) – Same Base Period Employment
Iowa Admin. Code r. 871-24.23(26)– Part-Time Worker – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 9, 2015, reference 05, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on June 18, 2015. Claimant participated personally. Employer participated by Jodi Allen.

ISSUES:

The issues are whether claimant is still employed at the same hours and wages and partially unemployed.

FINDINGS OF FACT:

The claimant worked for Lowe's, a base period employer, full time under the same terms and conditions as contemplated in the original contract of hire. Claimant also has other wages in the base period history. Claimant was beginning work by putting in part-time hours to watch orientation videos prepared by employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed and the employer is relieved of benefit charges.

Iowa Code § 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, 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.

An individual shall be deemed partially unemployed in any week in which 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.

Because the claimant has other base-period wages and was currently employed part time, for the one-week period of time in question claimant is considered to have been partially unemployed. Benefits are allowed. Inasmuch as the current part-time employer is offering the same wages and hours as in the base period, no benefit charges shall be made to its account.

DECISION:

The April 9, 2015, reference 05, decision is reversed. The claimant was partially unemployed for the period of time of March 8, 2015 through March 14, 2015 and benefits are allowed, provided claimant is otherwise eligible. The account of Lowe's shall not be charged.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/css