

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**MONA K SPEARS**  
Claimant

**APPEAL NO. 22A-UI-03202-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEAM STAFFING SOLUTIONS INC**  
Employer

**OC: 12/19/21  
Claimant: Appellant (4)**

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Iowa Code Section 96.4(3) – Able & Available  
Iowa Code Section 96.1A(37) – Temporary and Partial Unemployment

**STATEMENT OF THE CASE:**

On January 12, 2022, Mona Spears (claimant) filed a timely appeal from the January 10, 2022 (reference 01) decision that denied benefits effective December 19, 2021, based on the deputy's conclusion that the claimant was still employed with Team Staffing Solutions, Inc. under the same hours and wages as in the original contract of hire and was not partially unemployed within the meaning of the law. After due notice was issued, a hearing was held on March 3, 2022. Claimant participated. Sarah Fiedler represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Number 22A-UI-03203-JTT. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO and WAGE-A.

**ISSUES:**

Whether the claimant was able to work and available for work during the period of December 19, 2021 through January 1, 2022.

Whether the claimant was partially and/or temporarily unemployed during the period of December 19, 2021 through January 1, 2022.

Whether the employer's account may be charged for benefits for the period of December 19, 2021 through January 1, 2022.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant, Mona Spears, is employed by Team Staffing Solutions, Inc., a temporary employment agency. Since March 2021, the claimant has been assigned to work at COBO International. The assignment is full-time and the work hours are 7:00 a.m. to 3:30 p.m., Monday through Friday. The assignment pays \$12.00 an hour. Team Staffing Solutions is the claimant's primary and most recent base period employer.

The claimant established an original claim for benefits that was effective December 19, 2021. Iowa Workforce Development set the weekly benefit amount at \$237.00.

The claimant made weekly claims for the week that ended December 25, 2021 and January 1, 2022. For the week that ended December 25, the claimant reported that she was working and that had earned \$264.00 in wages. For the week that ended January 1, 2022, the claimant reported that she was not working and that she earned zero wages.

During the week of December 19-25, 2021, the claimant worked Monday through Wednesday, 24 hours in total. The claimant's wages for that work totaled \$288.00. The claimant elected to take Thursday, December 23, 2021 off without pay, though Team Staffing and COBO International had work for the claimant that day. Effective Friday, December 24, 2021, COBO International went into temporary shutdown in connection with the Christmas and New Year's holidays. COBO set a return to work date of Tuesday, January 4, 2022. The claimant remained physically and mentally able to work, and available for work, during the week of December 26, 2021 through January 1, 2022, but neither COBO nor Team Staffing had work for the claimant that week. The claimant had not requested a leave of absence. The claimant returned to the COBO assignment on Thursday, January 6, 2022, though COBO and Team Staffing again had work for the claimant effective Tuesday, January 4, 2022.

### **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".

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(10) and (29) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

...

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

Iowa Code section 96.1A(37) 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.

If a claimant individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. Iowa Code section 96.7(2)(a)(2)(a).

The claimant was able to work and available for work, but neither temporarily nor partially unemployed during the week that ended December 25, 2021. The claimant worked the majority of the work week for the employer. However, the claimant's wages for the week exceeded her weekly benefit amount plus \$15.00. The claimant is not eligible for benefits for the week that ended December 25, 2021.

The claimant was able to work, available for work, and temporarily laid off during the week that ended January 1, 2022. The employer and the client business did not have work for the claimant that week due to a temporary shutdown of the client business. The claimant did not

request a leave of absence. The claimant is eligible for benefits for the week that ended January 1, 2022, provided the claimant meets all other eligibility requirements. The employer's account may be charged for benefits for the week that ended January 1, 2022.

**DECISION:**

The January 10, 2022 (reference 01) is MODIFIED in favor of the claimant/appellant as follows. The claimant was able to work and available for work, but neither temporarily nor partially unemployed during the week that ended December 25, 2021. The claimant is not eligible for benefits for the week that ended December 25, 2021. The claimant was able to work, available for work, and temporarily laid off during the week that ended January 1, 2022. The claimant is eligible for benefits for the week that ended January 1, 2022, provided the claimant meets all other eligibility requirements. The employer's account may be charged for benefits for the week that ended January 1, 2022.



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James E. Timberland  
Administrative Law Judge

March 21, 2022  
Decision Dated and Mailed

jet/scn