

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**MARK A UHLENHOPP**  
Claimant

**APPEAL NO. 22A-UI-06473-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 12/05/21  
Claimant: Appellant (2)**

Iowa Code Section 96.4(3) – Work Search Requirement

**STATEMENT OF THE CASE:**

On March 14, 2022, Mark Uhlenhopp (claimant) filed a timely appeal from the March 9, 2022 (reference 03) decision that held the claimant was no longer temporarily unemployed and was required to engage in four re-employment activities, including three job applications, each benefit week. After due notice was issued, a hearing was held on April 22, 2022. Claimant participated. Exhibit A, the online appeal, was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO and DBRO.

**ISSUE:**

Whether the claimant was no longer temporarily unemployed and was required to engage in four re-employment activities, including three job applications, each benefit week, beginning with the benefit week that ended March 12, 2022.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant is employed by Rausch Brothers Trucking as a full-time commercial truck driver. The claimant's primary duties involve hauling rock to road construction sites, to concrete plants and asphalt plants, all for use on road construction. The claimant established an original claim for benefits that was effective December 5, 2021. Iowa Workforce Development characterized the claimant as a Group 3, job-attached claimant. The claimant established the claim for benefits in response to a seasonal layoff from the Rausch Brothers employment. During the seasonal layoff, the claimant remained available to perform full-time employment for the employer. During the seasonal layoff, the employer sometimes had work for the claimant hauling sand and the claimant made himself available for that work. During the weeks that ended December 18, 2021, March 26, 2022, and April 2, 2022, the employer claimant earned wages that exceeded his weekly benefit amount by more than \$15.00. During the weeks that ended December 25, 2021, January 1, March 12, and March 19, 2022, the employer provided very limited work and the claimant's earned wages were well below the weekly benefit amount. During the other weeks between December 5, 2021 and April 2, 2022, the employer had no work for the claimant and the claimant earned no wages. The claimant discontinued his claim

for benefits after the benefit week that ended April 2, 2022, in response to being recalled to the full-time employment.

### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.4(3) provides as follows:

96.4 Required findings. An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. a. 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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

b. Notwithstanding any provision of this chapter to the contrary, the department may establish by rule a process to waive or alter the work search requirements of this subsection for a claim for benefits if an individual has a reasonable expectation that the individual will be returning to employment and is attached to a regular job or industry or a member in good standing of a union therein eligible for referral for employment. To be considered attached to a regular job or industry, an individual must be on a short-term temporary layoff. If work is not available at the conclusion of the layoff period due to short-term circumstances beyond the employer's control, the employer may request an extension of the waiver or alteration for up to two weeks from the department. For purposes of this paragraph, "short-term temporary layoff" means a layoff period of sixteen weeks or less due to seasonal weather conditions that impact the ability to perform work related to highway construction, repair, or maintenance with a specific return-to-work date verified by the 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.

During the period of December 5, 2021 through the benefit week that ended April 2, 2022, the claimant continued to be attached to his full-time road construction trucking job. The claimant was on a short-term layoff and was temporarily and/or partially unemployed during those weeks when the employer did not have sufficient work available for the claimant to earn wages that exceeded the claimant's weekly benefit amount plus \$15.00. Pursuant to Iowa Code section 96.4(3)(b), the claimant was exempt from the work search requirement during the short-term layoff.

**DECISION:**

The March 9, 2022 (reference 03) decision is reversed. During the period of December 5, 2021 through the benefit week that ended April 2, 2022, the claimant continued to be attached to his full-time road construction trucking job. The claimant was on a short-term layoff and was temporarily and/or partially unemployed during those weeks when the employer did not have sufficient work available for the claimant to earn wages that exceeded the claimant's weekly benefit amount plus \$15.00. Pursuant to Iowa Code section 96.4(3)(b), the claimant was exempt from the work search requirement during the short-term layoff.



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James E. Timberland  
Administrative Law Judge

May 12, 2022  
Decision Dated and Mailed

jet/scn