

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TODD C TRAUM**  
Claimant

**1ST CLASS SECURITY INC**  
Employer

**APPEAL 17R-UI-05039-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/14/16**  
**Claimant: Appellant (2R)**

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the March 1, 2017, (reference 02) unemployment insurance decision that denied benefits based upon his availability for work. The parties were properly notified about the hearing. A telephone hearing was held on June 2, 2017. Claimant participated. Employer did not participate.

**ISSUES:**

Is the claimant partially unemployed and available for work?  
Is the claimant still employed at the same hours and wages?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant currently works for 1st Class Security, a base period employer, as a security officer. He was originally hired to work on a full-time basis. Approximately four years ago, claimant's employment was reduced to part-time hours. For the past four years, claimant has been working 18 to 30 hours per week, earning \$11.60 per hour. Claimant's weekly benefit amount is \$125.00. Employer's contract with its client expired in February 2017, and employer no longer has work to assign claimant. Since February 2017, claimant works for employer when work is available.

During the five weeks ending May 20, 2017, claimant was unavailable for work due to a medical condition. The Benefits Bureau of the Iowa Workforce Development has not made an initial determination on whether claimant was eligible for benefits during those weeks.

**REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Code § 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 § 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.

In this case, claimant is considered partially unemployed because he is earning less than his weekly benefit amount plus fifteen dollars. Claimant was available for work effective February 5, 2017, through the remainder of the 2016 claim year. Because the claimant does not have other base period wages and the level of employment is not consistent with the base period wage history with this employer, he may be considered partially unemployed and is eligible for benefits.

#### **DECISION:**

The March 1, 2017, (reference 02) unemployment insurance decision is reversed. The claimant is partially unemployed and available for work. Benefits are allowed, provided he is otherwise eligible.

**REMAND:**

The issue of whether claimant was able to work during the five weeks ending May 20, 2017, is remanded to the Benefits Bureau of the Iowa Workforce Development for an initial determination.

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Christine A. Louis  
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Decision Dated and Mailed

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