

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TAMMY R HARTLEP
Claimant

APPEAL 21R-UI-19345-SN-T

**ADMINISTRATIVE LAW JUDGE
AMENDED DECISION**

CAMSO MANUFACTURING USA LTD
Employer

**OC: 10/25/20
Claimant: Appellant (4)**

Iowa Code § 96.19(38) – Definitions – Total, partial unemployment
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Code § 96.7(2)A(2) – Charges – Same base period employment
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages

STATEMENT OF THE CASE:

On April 5, 2021, Tammy R. Hartlep (claimant/appellant) filed an appeal from the March 30, 2021, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on June 21, 2021, at 3:00 p.m. Administrative Law Judge Stephanie Adkisson issued a decision, 21A-UI-09599-S2-T on July 2, 2021, dismissing the claimant's appeal for failure to participate.

On August 26, 2021, the claimant appealed 21A-UI-09599-S2-T to the Employment Appeal Board (EAB). The EAB remanded the appeal back to the Appeals Bureau due to the claimant not receiving a notice of hearing regarding the hearing scheduled for June 21, 2021.

A hearing was scheduled for October 22, 2021. The claimant participated. The employer participated through Human Resources Renae Bettcher. Exhibit 1 was received into the record. Official notice was taken of the administrative record. Exhibit 1 was admitted into the record.

ISSUES:

Whether claimant is totally, partially or temporarily unemployed?
Whether claimant is able to and available for work?
Whether claimant is still employed at the same hours and wages?
Whether employer's account is subject to charge?

FINDINGS OF FACT:

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

The claimant began employment with the employer, Camso Manufacturing USA LTD, on November 28, 2017. The claimant is a full-time inventory clerk, working an average of 40 hours per week. The claimant's hourly wage is \$19.66. The claimant's immediate supervisor was Joe Hollister.

The claimant filed an initial claim for unemployment insurance benefits effective October 25, 2020. The claimant's weekly benefit amount is \$434.00. The claimant filed an additional claim on February 14, 2021.

Mr. Hollister told claimant that she would not be able to work for more than 16 hours for the week ending February 20, 2021. The administrative record DBRO reflects the claimant reported receiving \$315.00 for that week.

After that week, the claimant returned to work her regular work schedule. The claimant continued to make weekly claims for the week ending February 27, 2021. The administrative record DBRO shows she reported receiving \$858.00 for the week ending February 27, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was partially unemployed for the week ending February 20, 2021; benefits are allowed subject to claimant reporting wages earned and provided claimant is otherwise eligible. He concludes she was not unemployed for the week ending February 27, 2021.

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.

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 96.1A, 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".

Iowa Admin. R. 871-24.23(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

Iowa Code section 96.7(2)a(2) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the 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. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

(b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(c) The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

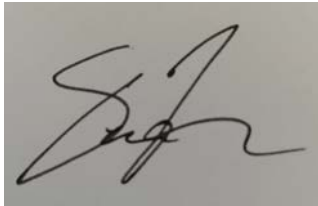
For the week ending February 20, 2021, the claimant was told by her supervisor she would only be able to work for 16 hours. She reported receiving \$315.00 for that week. The claimant was

partially unemployed for the week ending February 20, 2021 because she worked less than her full-time schedule due to lack of work and received less than her weekly benefit amount of \$434.00 plus \$15.00 (\$449.00).

For the week ending February 27, 2021, the claimant reported receiving \$858.00. The claimant said she was scheduled her regular hours for this week. As a result, the claimant was not unemployed for this week because she worked her full-time schedule and received more than her weekly benefit amount of \$434.00 plus \$15.00 (\$449.00)

DECISION:

The March 30, 2021, (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant was partially unemployed for the week ending February 20, 2021. Benefits are allowed for the week ending February 20, 2021. The claimant was not unemployed for the week ending February 27, 2021. Benefits are denied for the week ending February 27, 2021.



Sean M. Nelson
Administrative Law Judge
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Fax (515) 725-9067

November 4, 2021
Decision Dated and Mailed

smn/scn