

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ARCHIBALD G VAYE
Claimant

RUAN TRANSPORT CORP
Employer

APPEAL 21A-UI-04149-AD-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 05/10/20
Claimant: Respondent (1)

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Code § 96.19(38) – Total, partial unemployment

STATEMENT OF THE CASE:

On January 29, 2021, Ruan Transport Corp (employer/appellant) filed a timely appeal from the January 22, 2021 (reference 02) unemployment insurance decision that allowed benefits beginning May 10, 2020 based on a finding claimant was able and available for work during a layoff.

A telephone hearing was held on April 5, 2021. The parties were properly notified of the hearing. Archibald Vaye (claimant/respondent) registered a number for the hearing but was not available at the number at the hearing start time. Employer participated by Dedicated Transportation Manager Todd Kirchner.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant able to and available for work?
- II. Is the claimant totally, partially, or temporarily unemployed?

FINDINGS OF FACT:

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

Claimant worked for employer for several years. Claimant was employed full-time as a truck driver. Claimant's immediate supervisor was Kirchner. Claimant was temporarily unemployed due to a lack of work for the week ending May 16, 2020. Claimant returned to work after that time. He subsequently resigned for another job around the end of May 2020.

Claimant filed a claim for benefits in the weeks ending May 16 and May 23, 2020. Claimant reported wages earned in excess of his weekly benefit amount plus \$15.00 for the benefit week ending May 23, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the January 22, 2021 (reference 02) unemployment insurance decision that allowed benefits beginning May 10, 2020 based on a finding claimant was able and available for work during a layoff is AFFIRMED.

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 Code section 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 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.

Claimant was temporarily unemployed due to a lack of work for the week ending May 16, 2020. There is no indication claimant was not able to and available for work during that week. Claimant returned to work after that time and so was not available for work after that week, as he was employed to such an extent as to be removed from the labor market.

DECISION:

The January 22, 2021 (reference 02) unemployment insurance decision that allowed benefits beginning May 10, 2020 based on a finding claimant was able and available for work during a layoff is AFFIRMED.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

April 12, 2021
Decision Dated and Mailed

abd/scn