

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

TATINEA WILLIAMS
Claimant

APPEAL NO. 20A-UI-13527-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

D OF S FOODS INC
Employer

OC: 03/29/20
Claimant: Respondent (2)

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.7(2)A(2) – Partial Benefits
Iowa Code § 96.1(A)(37) – Total and Partial Unemployment

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated October 19, 2020, reference 05, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on December 29, 2020. Employer participated by Josh Hutt. Claimant failed to respond to the hearing notice and did not participate.

ISSUES:

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

FINDINGS OF FACT:

The claimant worked for employer part time under the same terms and conditions as contemplated in the original contract of hire until the time she quit her employment. Claimant stopped coming into work. Employer called claimant when she did not show up for work. Claimant stated that she had obtained other employment. Claimant does show wages from the third quarter of 2020, but it is unknown when those wages were earned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not partially unemployed.

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.

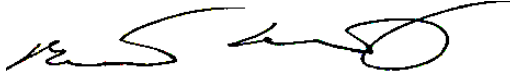
c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Benefits are denied as claimant was offered the same hours throughout her employment and those hours were offered at that time of her quit. Claimant did not work those hours as she did not make herself available to work the hours offered. Inasmuch as the current part-time employer is offering the same wages and hours as in the base period, no benefit charges shall be made to its account.

Note to Claimant: Even though claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The October 19, 2020, reference 05, decision is reversed. The claimant is not partially unemployed and is not eligible to receive benefits. Employer's account will not be charged.



Blair A. Bennett
Administrative Law Judge

January 15, 2021
Decision Dated and Mailed

bab/scn