

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT J BARTELS
Claimant

**JOHN DEERE CONSTRUCTION
EQUIPMENT**
Employer

APPEAL 21A-UI-21532-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/08/21
Claimant: Appellant (1R)

Iowa Code § 96.1A(37) – Total, Partial, and Temporary Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.7(2)A(2) – Employer Contributions and Reimbursements

STATEMENT OF THE CASE:

On September 28, 2021, claimant Robert Bartels filed an appeal from the September 22, 2021 (reference 01) unemployment insurance decision that found the claimant was still employed at the same hours and wages and was not partially unemployed. The parties were properly notified of the hearing. A telephonic hearing was held by Administrative Law Judge Darrin Hamilton at 9:00 a.m. on Thursday, November 18, 2021. The claimant, Robert J. Bartels, participated. The employer, John Deere Construction Equipment, did not appear for the hearing and did not participate. Claimant's Exhibit 1 was received and admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUE:

Was the claimant totally, partially, or temporarily unemployed effective August 8, 2021?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for John Deere Construction Equipment on August 14, 2017. He currently works full-time hours for the employer as an assembly worker.

Claimant experienced a two-week break in employment in late July and early August 2021, due to a plant shutdown. Prior to the shutdown, claimant last reported to work on Friday, July 23. The plant then closed for two weeks, the weeks of July 25 through July 31 and August 1 through August 7. The plant reopened the week of August 8. Claimant returned back to work that week.

Claimant made an error in filing his claim for benefits. Rather than opening his claim for benefits during the week of unemployment, he waited until after his unemployment had ended to open his claim. A review of the administrative record shows claimant did not file a claim in 2021 prior to August 8, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not unemployed and therefore not eligible for unemployment insurance benefits effective August 8, 2021.

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 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.

Under Iowa Employment Security Law, an individual must be totally, partially, or temporarily unemployed to be eligible for benefits. Iowa Code § 96.19(38). Here, claimant was totally, partially, or temporarily unemployed at the time he opened his claim for benefits. Claimant testified that the week of August 8, the plant reopened and he returned to full-time work. Therefore, he does not qualify as totally, partially, or temporarily unemployed once he opened his claim for benefits.

The administrative law judge acknowledges that claimant experienced a period of temporary unemployment due to a plant shutdown prior to the effective date of his unemployment claim. This matter will be remanded back to the Benefits Bureau to determine whether his claim may be backdated so that he might receive benefits for those weeks of temporary unemployment.

DECISION:

The September 22, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant was not totally, partially, or temporarily unemployed. Therefore, he is not eligible for unemployment insurance benefits effective August 8, 2021. Benefits are denied.

REMAND:

The issue of whether claimant's claim may be backdated to July 25, 2021, is remanded to the Benefits Bureau of Iowa Workforce Development for determination.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

March 14, 2022
Decision Dated and Mailed

lj/lj