

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

HEATHER DRYMAN
Claimant

APPEAL 21A-UI-17628-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROCKWELL COLLINS INC
Employer

**OC: 05/23/21
Claimant: Appellant (2R)**

Iowa Code § 96.1A(37) – 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:

The claimant, Heather Dryman, filed an appeal from the August 4, 2021 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on October 4, 2021, at 8:00 a.m. The claimant participated. The employer did not participate. Exhibits A and B were received into the record. Official notice was taken of the administrative 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, Heather Dryman, began employment with the employer, Rockwell Collins, as a full-time certified operator on March 11, 2013. The claimant's regular full-time schedule is 40 hours per week. The claimant's hourly wage was \$23.09 per hour.

Beginning in 2020, employer reduced claimant's hours were reduced periodically due to a reduction in work caused by Covid-19. The claimant filed an initial claim for unemployment insurance benefits effective May 23, 2021. The claimant's weekly benefit amount is \$531.00.

For the week ending May 29, 2021, the employer imposed a mandatory furlough on May 26, 2021, May 27, 2021 and May 28, 2021. The claimant worked for eight hours on May 24, 2021. She used eight hours of paid time off on May 25, 2021. The claimant provided a copy of her paycheck for that week which shows she earned \$369.44. (Exhibits A and B) The

administrative record DBRO shows the claimant earned \$336.00 for that week. The claimant was able and available for work, if work had been available that week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was partially unemployed and able and available for work effective May 29, 2021. Benefits are granted.

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 difference 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.

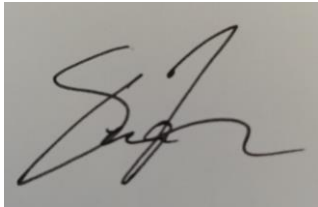
To be partially unemployed for any given week, claimant must work less than 40 hours per week (claimant's regular full-time schedule) and earn less than \$546.00 (claimant's weekly benefit plus \$15). For the week ending May 29, 2021, the claimant worked 16 hours and only earned \$369.44. Because claimant has earned less than her weekly benefit amount plus \$15.00 for that week, the claimant was unemployed. Benefits are granted.

DECISION:

The August 4, 2021 (reference 01) unemployment insurance decision is reversed. The claimant is partially unemployed. Benefits are granted.

REMAND:

The administrative law judge is remanding to the Benefits Bureau the re-calculation of the benefits the claimant received for the week ending May 29, 2021, given the disparity between what she reported and her gross earnings as displayed on Exhibit A.



Sean M. Nelson
Administrative Law Judge
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October 5, 2021
Decision Dated and Mailed

smn/mh