

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KENNETH R KELZER
Claimant

APPEAL 21A-UI-09225-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAMSO MANUFACTURING USA LTD
Employer

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

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions
Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment

STATEMENT OF THE CASE:

On April 1, 2021, Kenneth R. Kelzer (claimant) filed an appeal from the March 29, 2021, reference 03, unemployment insurance decision that denied benefits effective October 25, 2020, based upon the determination he was still employed in the same hours and wages with Camso Manufacturing USA, Ltd. (employer) and was not able to and available for work. After due notice was issued, a telephone hearing was held on June 16, 2021. The claimant participated. The employer participated through Renae Bettcher, HR Manager. No exhibits were admitted into the record.

ISSUES:

Is the claimant totally, partially, or temporarily unemployed?
Was the claimant able to work, available for work, and actively and earnestly seeking work effective October 25, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began working for the employer on June 8, 2020, as a full-time Assembler earning \$18.62 an hour. On December 8, the employer raised the claimant's hourly pay to \$19.39.

The claimant filed his claim for unemployment insurance benefits effective October 25, 2020, because the employer did not have work for him that week. The weekly benefit amount on the claim is \$493.00. The claimant continued to file intermittently for benefits due to part shortages and reduced hours through the week ending February 20, 2021. The following shows the weeks the claimant filed weekly claims and did not report wages earned over \$508.00, the wages he reported, the hours for which the employer compensated him, and the wages earned:

Week Ending	Wages Reported	Hours Compensated	Wages Earned
10/31/20	\$0	0	\$0
11/28/20	\$298	16	\$298
01/02/21	\$310	16	\$310
01/09/21	\$507	31.8	\$617
02/20/20	\$323	16.68	\$323

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not unemployed under Iowa law for the week ending January 9, 2021, and benefits for that week are denied. The claimant was temporarily unemployed the week ending October 31, 2020 and partially unemployed during the weeks ending November 28, and January 2 and February 20, 2021. He is considered able to and available for work during those weeks. Benefits are allowed, provided the claimant is otherwise eligible.

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". [Emphasis added.]

Iowa Code section 96.1A(37) provides:

Definitions.

37. 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 unemployed to be eligible for unemployment insurance benefits. Iowa Code § 96.1A(37). Total and temporary unemployment occur when an individual does not work or earn wages in any given week. However, temporary employment occurs when the employer does not have work for the claimant and the unemployment lasts for fewer than four consecutive weeks. Partial unemployment occurs when a person works and earns wages less than their weekly benefit amount plus fifteen dollars.

During the week ending October 31, 2020, the claimant did not work or earn wages because the employer did not have work for him. The layoff lasted for a week. Therefore, the claimant was temporarily unemployed and is considered able to and available for work during that time. Benefits are allowed, provided he is otherwise eligible.

The claimant's hours were reduced and he received wages less than \$508.00, or his weekly benefit amount plus fifteen dollars, during the weeks ending November 28, 2020, and January 2 and February 20, 2021. The claimant was partially unemployed during those weeks and is considered able to and available for work. Partial benefits are allowed, provided he is otherwise eligible.

During the week ending January 9, 2021, the claimant's hours were reduced, but he earned more than \$508.00 in gross wages. Therefore, he does not qualify for benefits because he is not unemployed under Iowa law. Benefits are denied for that week.

DECISION:

The March 29, 2021, reference 03, unemployment insurance decision is modified in favor of the appellant. The claimant was employed in the same hours and wages and not able to and available for work during the week ending January 9, 2021. Benefits are denied for that week. The claimant was temporarily or partially unemployed during the weeks ending October 31 and November 28, 2020, and January 2 and February 20, 2021. Benefits are allowed during those weeks, provided the claimant is otherwise eligible.



Stephanie R. Callahan
Administrative Law Judge

June 29, 2021
Decision Dated and Mailed

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