

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANIELLE WOLF
Claimant

APPEAL NO. 19A-UI-06706-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**JOHN DEERE CONSTRUCTION
EQUIPMENT**
Employer

**OC: 07/21/19
Claimant: Appellant (2)**

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.19(38)(c) – Temporarily Unemployed

STATEMENT OF THE CASE:

Danielle Wolf filed a timely appeal from the August 22, 2019, reference 01, decision that denied benefits for the week that ended July 27, 2019, based on the deputy's conclusion that Ms. Wolf was on vacation that week and not available for work. After due notice was issued, a hearing was held on September 18, 2019. Ms. Wolf participated. Mark Onderick represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Numbers 19A-UI-06707-JTT and 19A-UI-06708-JTT. Department Exhibits D-1 through D-4 were received into evidence.

ISSUES:

Whether Ms. Wolf was able to work and available for work during the week that ended July 27, 2019.

Whether Ms. Wolf was temporarily and/or partially unemployed during the week that ended July 27, 2019.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Danielle Wolf is employed by John Deere Construction Equipment on a full-time basis. In July 2019, the employer temporarily laid off Ms. Wolf in connection with a production shutdown. Ms. Wolf's last day worked prior to the shutdown was Friday, July 19, 2019. During the week of July 21-27, 2019, the employer had no work for Ms. Wolf. During that week, Ms. Wolf remained able to work and available to work full-time for the employer. The employer's policies required that the employer pay and that Ms. Wolf use accrued vacation pay benefits for the week of July 21-27, 2019. Ms. Wolf had not requested a vacation. The employer recalled Ms. Wolf to the employment on August 5, 2019 and Ms. Wolf returned to the full-time employment on that date.

In response to the temporary layoff, Ms. Wolf established an original claim for unemployment insurance benefits that was effective July 21, 2019. Ms. Wolf made a weekly claim for the benefit week that ended July 27, 2019 and received \$481.00 in benefits for that week. Ms. Wolf did not make a weekly claim for the week that ended August 3, 2019 and did not receive unemployment insurance benefits for that week.

REASONING AND CONCLUSIONS OF LAW:

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".

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 96.19(38)(c).

During the week that ended July 27, 2019, Ms. Wolf was able to work, available for work, but temporarily unemployed. Ms. Wolf is eligible for benefits for the week that ended July 27, 2019, *provided she meets all other eligibility requirements*.

Because the lower decision from which Ms. Wolf appealed was specific to the benefit week that ended July 27, 2019, and because Ms. Wolf did not make a weekly claim for the week that ended August 3, 2019, this decision need not address the week that ended August 3, 2019.

DECISION:

The August 22, 2019, reference 01, decision is reversed. The claimant was able to work, available for work, but temporarily unemployed during the benefit week that ended July 27, 2019. The claimant is eligible for benefits for the week that ended July 27, 2019, *provided she meets all other eligibility requirements*. This decision should be considered in conjunction with the decision in Appeal Number 19A-UI-06707-JTT, regarding vacation pay.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs