

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

**MATT PRYBIL
1090 UNDERWOOD AVE
RIVERSIDE IA 52327-9696**

**RIVERSIDE GRAIN & FEED COMPANY INC
130 – 1ST ST E
RIVERSIDE IA 52327**

APPEAL NO. 21A-UI-13677-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPEAL RIGHTS:

This Decision Shall Become Final, unless within 15 days from the mailing date below the administrative law judge's signature on the last page of this decision, you or any interested party:

Appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:

***Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
OR
Fax Number: (515)281-7191***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

ONLINE RESOURCES:

UI law and administrative rules:

<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>

UI Benefits Handbook:

<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-claimant-handbook>

Employer UI Handbook: <https://www.iowaworkforcedevelopment.gov/employer-handbook>

Report UI fraud: <https://www.iowaworkforcedevelopment.gov/report-fraud>

Employer account access and information: <https://www.myowaui.org/UITIPTaxWeb/>

National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MATT PRYBIL
Claimant

RIVERSIDE GRAIN & FEED COMPANY INC
Employer

APPEAL NO. 21A-UI-13677-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/14/21
Claimant: Appellant (5)**

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

The claimant, Matt Prybil, filed a timely appeal from the May 28, 2021, reference 01, decision that denied benefits effective March 14, 2021, based on the deputy's conclusion that the claimant was not partially unemployed. After due notice was issued, a hearing was held on August 11, 2021. Claimant participated. Mike Schneider represented the employer. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, and WAGE-A.

ISSUES:

Whether the claimant was able to work and available for work for the period beginning March 14, 2021.

Whether the claimant was partially and/or temporarily unemployed for the period beginning March 14, 2021.

Whether the employer's account may be charged for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed by Riverside Grain & Feed Company, Inc. as a part-time laborer. The claimant's duties include assisting with harvest, with grain bin bagging, and performing other duties as assigned. Since January 24, 2020, or earlier, the claimant's wage has been \$16.00 an hour. Mike Schneider assists with managing the operation and is the claimant's supervisor. Throughout the employment, the work hours have been subject to seasonal fluctuations. With that in mind, the claimant has not been promised a particular number of hours and the number of hours available may vary from week to week. The claimant's established start time is 7:00 or 7:30 a.m. The work day ends when the employer runs out of work for the claimant to perform.

The claimant established an original claim for benefits that was effective March 14, 2021. Iowa Workforce Development set the weekly benefit amount for regular benefits at \$245.00. Riverside Grain & Feed Company, Inc. is the sole base period employer. The claimant's base period quarterly wages were as follows:

EMPLOYER	ACCT-LOC	2019/4	2020/1	2020/2	2020/3
RIVERSIDE GRAIN & FEED CO	036272-000	5656	2627	3392	4026

More recently, the claimant's quarter wages were as follows:

EMPLOYER	ACCT-LOC	2020/4	2021/1	2021/2
RIVERSIDE GRAIN & FEED CO	036272-000	5114	1793	2567

Once the claimant established the original claim that was effective March 14, 2021, he did not make any weekly claims. This was not the claimant's first experience with unemployment insurance benefits and the claimant was familiar with the weekly claim requirement. When the claimant applied to establish the March 14, 2021 original claim, the confirmation page reminded the claimant of the weekly claim reporting requirement. When the claimant applied to establish the March 14, 2021 original claim, he agreed to read, know and follow the unemployment insurance handbook, which included instructions for filing weekly claims.

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".

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that

sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code 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 different from the contract for hire, such claimant cannot be considered partially unemployed.

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.

If a claimant 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. Iowa Code section 96.7(2)(a)(2)(a).

Iowa Administrative Code rule 871-24.2.(1)(g) provides as follows:

(g). No continued claim for benefits shall be allowed until the individual claiming benefits has completed a continued claim or claimed benefits as otherwise directed by the department.

(1) The weekly continued claim shall be transmitted not earlier than 8 a.m. on the Sunday following the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on Friday following the weekly reporting period.

The claimant is not eligible for benefits for the period beginning March 14, 2021. The claimant is not guaranteed a particular number of hours in the part-time employment. There has been no change in the work provided by the employer other than the seasonal fluctuations that have been part of the employment from the start. The claimant has not been partially unemployed. In addition, the claimant cannot be considered for weekly benefits for the period beginning March 14, 2021 because he made no weekly claims for that period. Benefits are denied effective March 14, 2021.

DECISION:

The May 28, 2021, reference 01, decision is modified as follows. The claimant has not been partially unemployed since March 14, 2021. The claimant cannot be considered for weekly benefits for the period beginning March 14, 2021 because he made no weekly claims for that period. Benefits are denied effective March 14, 2021.



James E. Timberland
Administrative Law Judge

November 4, 2021 _____
Decision Dated and Mailed

jet/scn

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed for reasons related to COVID-19, may qualify for Pandemic Unemployment Assistance (PUA). **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>.