

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JASON W SLACH**  
Claimant

**JOHN DEERE CONSTRUCTION EQUIP**  
Employer

**APPEAL 24A-UI-07405-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/21/24  
Claimant: Appellant (4)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.1A(37) – Total, Partial, and Temporary Unemployment  
Iowa Admin. Code r. 871-24.23(26) – Same Hours/Wages

**STATEMENT OF THE CASE:**

On August 19, 2024, claimant Jason W. Slach filed an appeal from the August 8, 2024 (reference 02) unemployment insurance decision that denied benefits effective July 21, 2024, determining he was still employed at the same hours and wages as at the time of hire. The Unemployment Insurance Appeals Bureau mailed notice of the hearing on August 21, 2024. Administrative Law Judge Elizabeth A. Johnson held a telephonic hearing at 8:00 a.m. on Monday, September 9, 2024. Appeal numbers 24A-UI-07405-LJ-T and 24A-UI-07613-LJ-T were heard together and created one record. Claimant Jason W. Slach personally participated. Employer John Deere construction Equipment participated through Jake Hernandez, Labor Relations Representative. No exhibits were admitted. The administrative law judge took official notice of the administrative record to review claimant's 2023 and 2024 claims for benefits on the Iowa Workforce Development mainframe.

**ISSUES:**

Is the claimant able to and available for work?  
Is the claimant totally, partially, or temporarily unemployed?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Jason Slach began working for John Deere on January 5, 2004. He currently works full-time hours for the employer as an assembler. Slach typically files a claim for benefits each July, toward the end of the month, due to a temporary layoff.

Slach opened a claim for benefits the week of July 23, 2023. IWD calculated his weekly benefit amount at \$582.00, based on his base period wages. John Deere schedules a plant-wide shut down at the end of July each year so the employer can replace and repair production machinery. Slach filed one weekly claim for benefits in July 2023. Then, he returned to work after the shutdown.

The employer placed Slach's department on an individual adjustment week (IAW) the week of June 23 through June 29, 2024. This put all employees in the department on temporary layoff, as the employer did not have production work available for them. Slach established an additional claim date effective June 23, 2024. He then filed a weekly continued claim for benefits for that week. Slach did not receive any wages or vacation pay for that week. He was paid his full benefit amount of \$582.00 by IWD. Slach returned to work on July 1, 2024.

Slach opened a claim for benefits in his second benefit year effective July 21, 2024. IWD calculated his weekly benefit amount at \$602.00, based on his base period wages. Slach filed three weekly continued claims for benefits, for the weeks ending July 27; August 3; and August 10.

Slach did not work any hours or receive any wages during the week ending July 27, 2024. The employer had laid off the majority of its workforce in connection with the plant-wide shut down. The employer had no work available for Slach during this week. When claimant filed his weekly continued claim, he reported \$0 in wages. Claimant received "sub pay" during that week. He did not receive wages or vacation pay.

The week ending August 3 was a required week of vacation under the labor agreement. Slach was required to take one week of his accrued vacation during that week. He was paid over \$1,000.00 in vacation pay. When Slach filed his weekly claim for that week, he reported \$700.00 in vacation pay. He knew this was not the correct amount; his goal was to report receiving enough so that he would not receive any unemployment benefits.

Slach did not work any hours or receive any wages during the week ending August 10. The employer had laid off claimant's department for that week only; this was an IAW coming on the heels of the plant-wide shut down. The employer had no work available for Slach during this week. When claimant filed his weekly continued claim, he reported \$0 in wages. Claimant received "sub pay" during that week. He did not receive wages or vacation pay.

The unemployment insurance decision (reference 1) notifying Slach he was not eligible for benefits effective June 23, 2024 was sent to his address of record on July 31, 2024. Claimant did not receive that decision promptly. The first sentence of the decision states, "If this decision denies benefits and is not reversed on appeal, it may result in an overpayment which you will be required to repay." The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by August 10, 2024.

Slach did not receive the decision until August 23, 2024. The day he received the denial decision in the mail, he went to the local IowaWorks office in Davenport to seek assistance. When Slach showed the letter to the local office staff, they helped him fax in an appeal using the standard paper appeal form. That appeal was applied to the disqualification and the overpayment decision, which had been issued two days prior.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was on a temporary layoff. Benefits are allowed.

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 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.

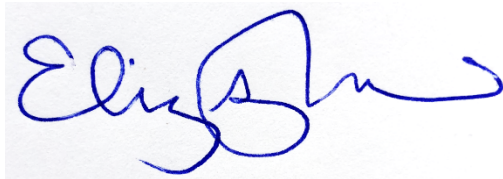
Claimant did not work from July 21 through August 10 due to a temporary layoff. As such, the requirement that claimant be able to and available for work is waived for that time period. Benefits are allowed, provided claimant is otherwise eligible.

Regardless of whether claimant properly reported the exact amount of his vacation pay, claimant reported a sufficient amount to ensure he did not receive any unemployment benefits during the week that he received vacation pay. As claimant received in excess of \$1,000.00 in vacation pay during the week ending August 3, he was not eligible for benefits for that week.

**DECISION:**

The August 8, 2024 (reference 02) unemployment insurance decision is modified in favor of claimant Jason Slach. Claimant was on a temporary layoff due to a lack of work between July 21, 2024 and August 10, 2024. Claimant received no wages, vacation pay, or other income from the employer during the weeks ending July 27 and August 10. Benefits are allowed for the week ending July 27, 2024; and for the week ending August 10, 2024.

Claimant received vacation pay in excess of \$1,000.00 for the week ending August 3, 2024. Benefits remain denied for that week.



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Elizabeth A. Johnson  
Administrative Law Judge

September 11, 2024  
Decision Dated and Mailed

lj/scn

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: eab.iowa.gov**

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:**

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or 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.

**Note to Claimant:** It is important that you file your weekly 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.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.