

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

DEANTWAN L JACKSON
Claimant

AMAZON.COM SERVICES INC
Employer

APPEAL NO. 24A-UI-04500-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/24/24
Claimant: Respondent (2R)**

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

On May 9, 2024, the employer filed a timely appeal from the May 1, 2024 (reference 04) decision that allowed benefits to the claimant for the period beginning April 7, 2024, provided the claimant was otherwise eligible, and that held the employer's account could be charged for benefits for that period. The reference 04 decision was based on the deputy's conclusion that the claimant was able to work, available for work, but that the employer was not providing the same employment as in the base period. After due notice was issued, a hearing was held on May 23, 2024. Deantwan Jackson (claimant) did not comply with the hearing notice instructions to call the designated toll-free number at the time of the hearing and did not participate in the hearing. Marilyn Borja, Human Resources Partner, represented the employer. The administrative law judge took official notice of the following agency administrative records: KCCO, DBRO, WAGE-A, NMRO, and the April 23, 2024 (reference 02) decision.

ISSUES:

Whether the claimant was able to work and available for work during the period beginning April 7, 2024.

Whether the claimant was partially and/or temporarily unemployed during the period beginning April 7, 2024.

FINDINGS OF FACT:

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

Deantwan Jackson (claimant) established an original claim for benefits that was effective March 24, 2024. Iowa Workforce Development set the weekly benefit amount at \$447.00. Mr. Jackson did not immediately commence making weekly claims. Mr. Jackson later filed an "additional claim" that was effective effective April 7, 2024, but again did not commence making weekly claims. Mr. Jackson "reopened" the claim effective April 28, 2024 and thereafter made weekly claims for the three weeks ending May 4, May 11 and May 18, 2024. Mr. Jackson did not make weekly claims for other weeks. Mr. Jackson's weekly claims appear in IWD's records as follows:

WEEK	WK	AB	RF	ER	ACT					PROCESSED		
ENDING	ST	AV	OF	CT	CT	WAGES	VACAT	HLDY	P	DATE	MODE	TIME
05/18/24	S	Y	N	0	0	200	0	0	N	05/20/24	WEEKLYCL	08.18
05/11/24	S	Y	N	0	0	86	0	0	N	05/12/24	WEEKLYCL	08.54
05/04/24	N	Y	N	0	0	0	0	0	N	05/05/24	WEEKLYCL	08.12

Iowa Workforce Development paid \$447.00 in benefits for the week that ended May 4, 2024. IWD has paid no other benefits.

Since April 26, 2023, Mr. Jackson has been employed by Amazon.com Services, Inc. as a Fulfillment Associate at the employer's fulfillment center in Bondurant. The employer categorizes Mr. Jackson as a "reduced time" employee, meaning that Mr. Jackson may be scheduled to work 30 to 36 hours a week. Since the start of the employment, Mr. Jackson's regular work schedule has consisted of 6:00 p.m. to 6:30 a.m., Thursday, Friday and Saturday, meaning that the employment has essentially been full-time, with three 12-hour shifts per week. Mr. Jackson is assigned to the stow department. Mr. Jackson's duties involve receiving items from freight trailers, removing items from totes, and placing items in storage pods. Mr. Jackson's base wage is \$19.40 an hour. Mr. Jackson receives a \$2.40 hourly shift differential, for a total hourly wages of \$21.80.

During the week that ended May 4, 2024, the employer had Mr. Jackson's regular work hours (36) available for Mr. Jackson. On May 2, Mr. Jackson elected to leave work three hours and five minutes into the 12-hour shift. On May 3, Mr. Jackson elected to leave work three hours and six minutes into the 12-hour shift. On May 4, Mr. Jackson elected not to work any of the 12-hour shift. The employer paid Mr. Jackson for two hours and 34 minutes of combined vacation time and Paid Personal Time for May 4.

During the week that ended May 11, 2024, the employer had Mr. Jackson's regular hours (36) available for Mr. Jackson. On May 9, Mr. Jackson elected not to work the 12-hour shift. On May 10, Mr. Jackson elected to leave work at six hours and 36 minutes into the 12-hour shift. On May 11, Mr. Jackson elected to leave work at four hours and eight minutes into the 12-hour shift. The employer paid the claimant for an additional hour and 24 minutes of Paid Personal Time for May 11.

During the week that ended May 18, 2024, the employer again had Mr. Jackson's regular hours (36) available. On May 16, Mr. Jackson elected to leave work three hours and five minutes into the 12-hour shift. On May 17, Mr. Jackson elected to leave work six hours and 3 minutes into the 12-hour shift. On May 18, Mr. Jackson elected to leave work six hours and 34 minutes into the 12-hour shift. The employer paid Mr. Jackson for an hour and 24 minutes of Paid Personal Time and for an hour and 10 minutes of vacation for May 18.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(3) provides as follows:

96.4 Required findings. An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. a. 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. 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(16) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

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 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).

Mr. Jackson has not been available for work within the meaning of the law and has not been temporarily or partially unemployed within the meaning of the law since April 7, 2024. Mr. Jackson did not file weekly claims for period of April 7, 2024 through April 7, 2024 and therefore cannot be considered for benefits for those weeks. See Iowa Administrative Code rule 87124.2.(1)(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). During the weeks that ended May 4, 11 and 18, the employer had Mr. Jackson's regular work hours available but Mr. Jackson elected only to work a portion of the hours the employer made available. Mr. Jackson unduly restricted his availability for work. Benefits are denied for the period beginning April 7, 2024. The disqualification continues at present. The employer's account shall not be charged for benefits for the period beginning April 7, 2024. This matter will be remanded to the Benefits Bureau for entry of an overpayment decision regarding the \$447.00 in benefits paid to the claimant for the week ending May 4, 2024.

DECISION:

The May 1, 2024 (reference 04) is REVERSED. The claimant has not been available for work within the meaning of the law and has not been temporarily or partially unemployed within the meaning of the law since April 7, 2024. The claimant did not file weekly claims for period of April 7, 2024 through April 7, 2024 and therefore cannot be considered for benefits for those weeks. During the weeks that ended May 4, 11 and 18, the employer had the claimant's regular work hours available but the claimant elected to unduly restrict his availability for work. Benefits are denied for the period beginning April 7, 2024. The disqualification continues at present. The employer's account shall not be charged for benefits for the period beginning April 7, 2024. This matter will be remanded to the Benefits Bureau for entry of an overpayment decision regarding the \$447.00 in benefits paid to the claimant for the week ending May 4, 2024.

REMAND:

This matter is REMANDED to Iowa Workforce Development Benefits Bureau for entry of an overpayment decision regarding the \$447.00 in benefits paid to the claimant for the week ending May 4, 2024.

A handwritten signature in cursive script that reads "James E. Timberland". The signature is written in black ink on a light gray background.

James E. Timberland
Administrative Law Judge

May 28, 2024
Decision Dated and Mailed

jet/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:

**Employment Appeal Board
6200 Park Ave Ste 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>.

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:

**Employment Appeal Board
6200 Park Ave Ste 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 está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.