

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CAROL J WOOD**  
Claimant

**TRI RINSE, INC.**  
Employer

**APPEAL 21A-UI-13236-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/21/21  
Claimant: Appellant (2)**

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Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages  
Iowa Code § 96.1A(37) – Total, partial unemployment  
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search  
Iowa Code § 96.7(2)a(2) – Charges – Same base period employment

**STATEMENT OF THE CASE:**

On May 30, 2021, Carol Wood (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated May 25, 2021 (reference 01) that denied benefits as of February 21, 2021 based on a finding claimant was still employed for the same hours and wages as in the contract of hire.

A telephone hearing was held on August 9, 2021. The parties were properly notified of the hearing. Claimant participated personally. Tri Rinse, Inc. (employer/respondent) participated by Cathy Schotte.

Claimant's Exhibits 1 and 2 were admitted. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?
- III. Is the claimant still employed at the same hours and wages? Is the employer's account subject to charge? Is the claimant an on-call worker?

**FINDINGS OF FACT:**

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

Claimant began working for employer on June 29, 2020. Claimant is still employed by employer. Claimant is employed full-time as a wash line worker. Claimant filed a claim for benefits each week from the week ending April 3, 2021 and continuing through the week ending May 29, 2021. There was less work available during those weeks due to a slowdown. Claimant reported the wages earned each week as she was filing. Claimant's weekly benefit amount plus \$15.00 is

\$345.00. Claimant did not earn wages in excess of that amount in any week filed. Claimant was able and available for work in each week filed.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the decision dated May 25, 2021 (reference 01) that denied benefits as of February 21, 2021 based on a finding claimant was still employed for the same hours and wages as in the contract of hire is REVERSED. Benefits are allowed in each week filed.

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 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 was partially unemployed, able and available for work, and earning less than her weekly benefit amount plus \$15.00 in each week filed. She is therefore eligible for benefits in each week filed.

**DECISION:**

The decision dated May 25, 2021 (reference 01) that denied benefits as of February 21, 2021 based on a finding claimant was still employed for the same hours and wages as in the contract of hire is REVERSED. Benefits are allowed in each week filed.



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August 17, 2021  
Decision Dated and Mailed

abd/mh