

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HANNAH M VAN BEEK
Claimant

HOPE HAVEN INC
Employer

APPEAL 20A-UI-09181-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (4R)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

On July 30, 2020, the claimant filed an appeal from the July 23, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 18, 2020. Claimant participated personally and her mother, Angela Van Beek, also testified. Employer participated through chief of staff Lisa Schwanke. Claimant's Exhibit A was admitted into the record.

ISSUES:

Is the claimant totally, partially, or temporarily unemployed?
Is the claimant able to and available for work?
Is the claimant still employed at the same hours and wages?
Is the employer's account subject to charge?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on December 4, 2018, as a full-time direct support professional.

During the last week of March 2020, claimant informed the employer she wanted to transition from being a full-time employee to an on-call employee effective April 19, 2020.

Prior to April 5, 2020, employer adopted a policy stating that employees who crossed state lines would be prohibited from working for 14 days after their return. Claimant was not made aware of the policy.

On or about April 5, 2020, claimant went to Indiana. On April 7, 2020, employer notified claimant she could not work until April 20, 2020.

Claimant did not work any on-call shifts for employer after that and asked to be taken off the on-call list on June 12, 2020.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.19(38) 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.

In order to receive regular unemployment insurance benefits under Chapter 96 of the Iowa Code, a totally unemployed claimant must establish he or she is able to and available for work. Iowa Code § 96.4(3).

Iowa Admin. Code r. 871-24.23(10) provides:

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

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

In this case, employer prohibited claimant from working from April 5, 2020, until April 20, 2020, because of a policy it was unable to establish had been communicated to claimant. Claimant did not limit her availability for work during that time period, so she is eligible for benefits during the two weeks ending April 18, 2020.

After April 19, 2020, claimant limited her availability by making herself available for only on-call work, although employer had full-time work available. Moreover, claimant did not work any of the available on-call shifts.

Therefore, benefits are denied from April 19, 2020, going forward as claimant limited her availability for work.

Claimant separated from employment on June 12, 2020, and the Benefits Bureau of Iowa Workforce Development has not resolved the issue of whether that separation disqualifies claimant from receiving benefits. That issue will be remanded for an initial determination.

DECISION:

The July 23, 2020, (reference 01) unemployment insurance decision is modified in favor of claimant. The claimant is eligible for unemployment insurance benefits for the two weeks ending April 18, 2020. Effective April 19, 2020, benefits are denied, as claimant limited her availability for work.

REMAND:

The issue regarding whether claimant's separation from employment disqualifies her from receiving unemployment insurance benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

September 22, 2020
Decision Dated and Mailed

cal/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 due to disqualifying separations, but who are currently 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>.