

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TERENCE BELDING
Claimant

BUSSANMAS HEATING & COOLING
Employer

APPEAL 20A-UI-07911-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1R)

Iowa Code § 96.4-3 – Able and Available
871 IAC 24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

Terence Belding (claimant) appealed a representative's July 2, 2020, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits as of March 29, 2020, because a leave of absence was granted by Bussanmas Heating & Cooling (employer) at the claimant's request. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 18, 2020. The claimant participated personally. The employer participated by Pamela Seymour, Controller. The administrative law judge took official notice of the administrative file.

ISSUES:

The issue is whether the claimant is available for work and whether the claimant was on an approved leave of absence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on December 20, 2013, and is now working as a full-time lead installer. At the suggestion of his daughter's doctor, the claimant did not work from April 2, 2020, through April 17, 2020. The doctor thought the claimant should not work because of Covid-19 and the daughter's health condition. The employer paid the claimant \$587.00 each week for the three-week period ending April 18, 2020, (and other weeks) under the Families First Coronavirus Response Act (FFCRA).

The claimant worked and earned \$880.00 per week for the three-week period ending May 9, 2020. The claimant did not work from June 29, 2020, through July 7, 2020, because a co-worker tested positive for Covid-19. The employer paid the claimant \$587.00 per week during his absence, under the FFCRA.

The claimant filed for unemployment insurance benefits with an effective date of March 29, 2020. His weekly benefit amount (WBA) was determined to be \$591.00. The claimant received benefits of \$591.00 per week from March 29, 2020, to the week ending May 9, 2020. This is a

total of \$3,165.00 in state unemployment insurance benefits after the separation from employment. He also received \$3,600.00 in Federal Pandemic Unemployment Compensation for the six-week period ending May 9, 2020. During the seven-week period the claimant filed for benefits, he reported wages for one week. For the week ending April 4, 2020, the claimant reported gross wages of \$528.00. All other weeks the claimant reported no wages/vacation pay.

REASONING AND CONCLUSIONS OF LAW:

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 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.

When employees request and are granted a leave of absence, they are considered to be voluntarily unemployed. The claimant requested two leaves of absence and the employer granted the request. The claimant is considered to be voluntarily unemployed, or unavailable for work, during the periods of the leaves and is not eligible to receive unemployment insurance benefits from March 29, 2020.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

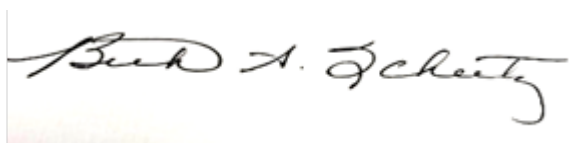
The issue of the overpayment of state unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded for determination.

DECISION:

The representative's July 2, 2020, decision (reference 01) is affirmed. The claimant is considered to be unavailable for work and is not eligible to receive unemployment insurance benefits from March 29, 2020.

The issue of the overpayment of state unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded for determination.

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 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>.



Beth A. Scheetz
Administrative Law Judge

August 24, 2020
Decision Dated and Mailed

bas/scn