

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DAVID B CARTER**  
Claimant

**APPEAL 20A-UI-15896-DB-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ENTERPRISE RENT A CAR COMPANY**  
EMPLOYER

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

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Iowa Code § 96.4(3) – Able to and Available for Work  
Iowa Code § 96.19(38)B – Total, Partial Unemployment

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the November 6, 2020 (reference 01) unemployment insurance decision that denied unemployment insurance benefits effective August 9, 2020 finding that the claimant was working in his same job and for the same hours as his original contract of hire. After due notice was issued, a telephone hearing was held on February 2, 2021. The claimant participated personally. The employer, Enterprise Rent a Car Company, did not participate. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**ISSUES:**

Is the claimant eligible for total or partial unemployment benefits?  
Is claimant employed for the same hours and wages?  
Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: Claimant works for this employer part-time as a hub driver. He began his employment in July of 2011 and continues to be employed to date. His normal working hours vary based upon business needs but he consistently works between 24-28 hours per week.

Claimant's administrative records establish that he filed his original claim for State of Iowa unemployment insurance benefits effective March 29, 2020. His weekly benefit amount is \$141.00. The employer closed completely due to the COVID 19 public health emergency in March of 2020. Claimant earned no wages, holiday pay or vacation pay from March 29, 2020 through June 6, 2020. Claimant was called back to work on June 7, 2020 and worked his regular hours until July 4, 2020. The claimant's hours were then cut again until August 9, 2020, when he went back to his regular schedule. As of August 9, 2020, the claimant has been working his regular schedule.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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", subparagraph (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".

(emphasis added).

Iowa Code § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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.

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deductions shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with

respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

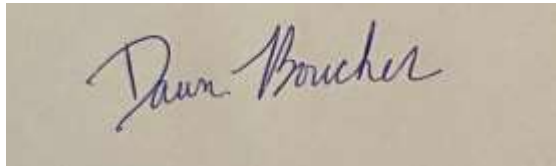
This rule is intended to implement Iowa Code § 96.3, 96.4 and 96.19(38).

In this case, the claimant was totally unemployed from March 29, 2020 through June 6, 2020 due to lack of work. Claimant then earned wages in excess of his weekly-benefit amount, plus fifteen dollars for the week-ending June 13, 2020; June 20, 2020; June 27, 2020; and July 4, 2020. Claimant earned wages less than his weekly-benefit amount for the week-ending July 11, 2020; July 18, 2020; July 25, 2020; August 1, 2020; and August 8, 2020. By August 9, 2020 he was working in the same capacity of his original contract of hire.

For the weeks in which the claimant has earned wages in excess of his weekly-benefit amount, plus fifteen dollars, he cannot be considered partially unemployed. See Iowa Code 96.19(38) and Iowa Admin. Code r. 871-24.18. For the weeks in which the claimant worked less than his regular full-time week and earned gross wages that were less than his weekly benefit amount, he is considered partially unemployed and benefits are allowed for those weeks. See Iowa Code § 96.19(38)(b)(1). Benefits are denied effective August 9, 2020 as the claimant resumed working his same hours and same wages as in his original contract of hire.

**DECISION:**

The November 6, 2020 (reference 01) decision is affirmed. Effective August 9, 2020, the claimant was working the same hours and earning the same wages as in his original contract of hire. Benefits are denied effective August 9, 2020.

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Dawn Boucher  
Administrative Law Judge

February 16, 2021  
Decision Dated and Mailed

db/ol

**Note to Claimant**

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. 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.
- If you do not qualify for regular unemployment insurance benefits funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance (“PUA”) section of the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”) that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**  
For additional information on how to apply for PUA go to:  
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:  
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to “Submit Proof Here.” You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:  
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.