

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**GREG A HAMPTON**  
Claimant

**APPEAL 20A-DUA-00842-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 06/14/20**  
**Claimant: Appellant (1)**

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PL 116-136, Sec. 2102 – Federal Pandemic Unemployment Assistance  
20 CFR 625 – Disaster Unemployment Assistance

**STATEMENT OF THE CASE:**

On October 29, 2020, Greg Hampton (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated October 26, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA).

A telephone hearing was initially set for November 25, 2020 at 8 a.m. That date was subsequently declared a state holiday, and claimant was contacted by department staff to see if he would instead be available for a hearing on November 19, 2020 at 3:30 p.m. Claimant agreed to be available and a hearing was held at that time. The claimant participated personally.

Claimant submitted a proposed exhibit prior to the hearing. However, the document submitted was a small image that was difficult to view. The administrative law judge left the record open after the hearing to allow claimant to re-submit the document in a viewable format. Claimant did re-submit the document and it was admitted as Claimant's Exhibit 1. Official notice was taken of the administrative record.

**ISSUE:**

- I. Is the claimant eligible for Pandemic Unemployment Assistance?

**FINDINGS OF FACT:**

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

Claimant was most recently employed as a mover for Field Brothers Movers. Claimant last performed work there in the 2<sup>nd</sup> quarter of 2019.

The document claimant submitted is a 2019 W-2 showing claimant received \$1,788.50 in wages from Field Brothers Moving. The administrative record shows wages in that same amount earned during the 1<sup>st</sup> and 2<sup>nd</sup> quarter of 2019. The administrative record shows claimant has not earned any further wages from that employer or any other employer since that time.

Claimant is not eligible for regular compensation or extended benefits under state or federal law or Pandemic Emergency Unemployment Compensation (PEUC). A department decision issued September 3, 2020 found claimant was still employed by employer and not available for work. That decision denied benefits as of June 14, 2020.

Claimant is not unable or unavailable for work due to COVID-19.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons set forth below, the Iowa Workforce Development decision dated October 26, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is AFFIRMED. Claimant is not eligible for PUA.

Public Law 116-136, Sec. 2102 provides for unemployment benefit assistance to any covered individual for any weeks beginning on or after January 27, 2020 and ending on or before December 31, 2020, during which the individual is unemployed, partially unemployed, or unable to work due to COVID-19. The issue to be determined here is whether claimant is a “covered individual” within the meaning of applicable law.

(3) COVERED INDIVIDUAL.—The term “covered individual”—

(A) means an individual who—

(i) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107; and

(ii) provides self-certification that the individual—

(l) is otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because—

(aa) the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

(bb) a member of the individual’s household has been diagnosed with COVID-19;

(cc) the individual is providing care for a family member or a member of the individual’s household who has been diagnosed with COVID-19;

(dd) a child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct

result of the COVID–19 public health emergency and such school or facility care is required for the individual to work;

(ee) the individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID–19 public health emergency;

(ff) the individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID–19;

(gg) the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID–19 public health emergency;

(hh) the individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID–19;

(ii) the individual has to quit his or her job as a direct result of COVID–19;

(jj) the individual's place of employment is closed as a direct result of the COVID–19 public health emergency; or

(kk) the individual meets any additional criteria established by the Secretary for unemployment assistance under this section; or

(ll) is self-employed, is seeking part-time employment, does not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107 and meets the requirements of subclause (l); and

(B) does not include—

(i) an individual who has the ability to telework with pay; or

(ii) an individual who is receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets a qualification described in items (aa) through (kk) of subparagraph (A)(i)(l).

It is the duty of the administrative law judge, as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the

testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*


The administrative law judge did not find claimant's testimony to be reliable. Claimant testified that he was most recently employed as a mover for Field Brothers Moving. Claimant testified that he began working there in May 2019. He estimated that he worked there 40 hours per week in 2019 and made \$14.00 per hour or about \$500.00 per week. Claimant testified that he continued working there until approximately March 1, 2020 and at that time work there stopped completely due to the pandemic. Claimant testified he has not heard from employer since June 2020 and is unsure if he is still employed there.

The administrative record and the document claimant submitted paint a different picture. Those records show claimant worked sparingly for employer in 2019 and did not perform any work for it or any other employer after the 2<sup>nd</sup> quarter of 2019. Further, a department decision issued September 3, 2020 found claimant was still employed by employer and not available for work. That decision denied benefits as of June 14, 2020. The administrative law judge finds these records to be more reliable than the testimony provided by claimant. Factual findings were made accordingly.

The administrative law judge finds claimant is not unemployed, partially unemployed, or unable or unavailable to work because of COVID-19 and is therefore ineligible for PUA.

**DECISION:**

The Iowa Workforce Development decision dated October 26, 2020 that determined claimant was not eligible for federal Pandemic Unemployment Assistance (PUA) is AFFIRMED.



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Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
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December 3, 2020  
Decision Dated and Mailed

abd/scn