

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOHN C MCGRUDER
Claimant

IOWA SCHOOL FOR THE DEAF
Employer

APPEAL 20A-UI-05395-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Respondent (2)

Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions
Iowa Admin. Code r. 871-24.23(26) – Available – Part-time Same Wages and Hours
Iowa Code § 96.4(5) – Reasonable Assurance
Iowa Code § 96.7(2)a(2) – Employer Chargeability

STATEMENT OF THE CASE:

On June 8, 2020, Iowa School for the Deaf (employer) filed an appeal from the May 28, 2020, reference 01, unemployment insurance decision that allowed benefits based upon the determination John C. McGruder (claimant) was on a short-term layoff. After due notice was issued, a telephone hearing was held on July 23, 2020. The claimant participated personally. The employer participated through Deb LeHeup, Director of Human Resources. The employer's Exhibit 1 was admitted without objection. The administrative law judge took official notice of the claimant's claim and wage histories.

ISSUES:

Is the claimant totally, partially, or temporarily unemployed?
Was the claimant able to and available for work effective March 29, 2020?
Does the claimant have reasonable assurance of continued employment in the next school term or year?
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: The claimant began working part-time as a Driver for the employer on January 20, 2020. The claimant was laid off March 13, 2020, due to the school closure as a result of the COVID-19 pandemic. The claimant filed his claim for unemployment insurance benefits effective March 29 and his weekly benefit amount is \$102. The base period includes only the wage credits the claimant earned from another part-time employer for whom he still works and earns approximately \$200 a week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not currently totally, partially, or temporarily unemployed. Regular benefits are denied and the other issues are moot.

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 96.19(38) provides:

Definitions.

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.

The claimant performed services and earned wages for the weeks in which he filed for benefits and cannot be totally or temporarily unemployed those weeks. The next question is whether he was partially unemployed during those weeks. In order to be partially unemployed, an individual must work and earn less than the weekly benefit amount plus fifteen dollars. *Id.* The claimant

continues to work his normal job with his other employer and earns more than his weekly benefit amount plus fifteen dollars. Therefore, he is not totally, partially, or temporarily unemployed and is not eligible for unemployment benefits.

As the claimant is not unemployed, the issue of whether he is able to and available for work is moot. Even if the claimant were to become unemployed in any future weeks, his base period consists entirely of non-education related wage credits rendering the issues of reasonable assurance and the chargeability of the employer's account moot.

DECISION:

The May 28, 2020, reference 01, unemployment insurance decision is reversed. The claimant is not totally, partially, or temporarily unemployed effective March 29, 2020. Benefits are denied and the other issues are moot.



Stephanie R. Callahan
Administrative Law Judge

August 3, 2020
Decision Dated and Mailed

src/sam

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>.