

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SCOTT JARRARD
Claimant

APPEAL NO. 21A-UI-13879-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA
Employer

OC: 07/12/20
Claimant: Appellant (1)

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.1A(37) – Partial Unemployment
Iowa Admin. Code r. 871-24.2(1)(h) – Effective Date of Claim

STATEMENT OF THE CASE:

Claimant, Scott Jarrard, filed a timely appeal from the June 9, 2021, reference 03, decision that denied benefits effective March 28, 2021, based on the deputy's conclusion that the claimant was not partially unemployed. After due notice was issued, a hearing was held on August 12, 2021. Claimant participated. Scott Coons represented the employer. Exhibits A through D were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KLOG and the administrative law judge decision in Appeal Number 20A-UI-14162-S1-T.

ISSUES:

Whether the claimant was able to work and available for work for the period beginning March 28, 2021.

Whether the claimant was partially and/or temporarily unemployed for the period beginning March 28, 2021.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed by The University of Iowa as a full-time Electrician II. The claimant's usual work hours are 7:00 a.m. to 3:30 p.m., Monday through Friday. The claimant's annual salary during the time in question translates to \$1,206.22 per week or \$241.24 per day.

The claimant established an original claim for benefits that was effective July 12, 2020. Iowa Workforce Development set the weekly benefit amount for regular benefits at \$512.00. The University of Iowa is the sole base period employer. The claimant made a weekly claim for the week that ended July 18, 2020 and then discontinued his weekly claim in connection with his return to the full-time employment.

During the week of March 21-27, 2021, the claimant participated in a mandatory furlough. The claimant worked on March 22 and 23, 2021, for which he earned \$482.49. The claimant was on

furlough March 24, 25 and 26, 2021. The claimant returned to the full-time employment on Monday, March 29, 2021, though he took a couple days that week as paid vacation days.

The claimant did not reactivate his unemployment insurance claim during the week of the furlough, the week that ended March 27, 2021. After the claimant returned to work the following week, he reactivated his claim for benefits and then spoke to an Iowa Workforce Development representative to provide weekly claim information for the week that ended March 27, 2021. The claimant reported his partial weekly wages at that time. The claimant then discontinued the claim. The claimant did not make a claim for the week that ended April 3, 2021.

REASONING AND CONCLUSIONS OF LAW:

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 Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

Iowa Code section 96.1A(37) 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.

If a claimant individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. Iowa Code section 96.7(2)(a)(2)(a).

Iowa Administrative Code rule 871-24.2(1)(a) and (h) provide as follows:

Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

a. Following separation from work, any individual, in order to establish a benefit year during which the individual may receive benefits because of unemployment, shall file an initial claim for benefits electronically, in person at a local department office, or by other means prescribed by the department and register for work. A claim filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed.

h. Effective starting date for the benefit year.

(1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual files a claim for benefits.

(2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:


1. The failure of the department to recognize the expiration of the claimant's previous benefit year;
2. The claimant filed an interstate claim against another state which has been determined as ineligible.

The decision from which the claimant appealed concerned the claimant's eligibility for benefits for the period beginning March 28, 2021. The claimant was not eligible for benefits for that period because he was back at the full-time job and, therefore, did not meet the unemployment insurance "availability" requirement and was not temporarily or partially unemployed.

Pursuant to the Iowa Administrative Code rule above, regarding effective date of claims and backdating of claims, the administrative law judge would have no authority to backdate the March 28, 2021 additional claim to a date before March 28, 2021. There would be no basis for awarding benefits for the week that ended March 27, 2021 in the absence of an active claim for that week.

DECISION:

The June 9, 2021, reference 03, is affirmed. The claimant did not meet the availability requirement and was not temporarily or partially unemployed during the period that began March 28, 2021. In addition, there is no basis for awarding benefits for the week that ended March 27, 2021 in the absence of an active claim for that week. This decision has no impact on the claimant's eligibility for benefits in connection with any subsequent additional claim for benefits, including the additional claim that was effective May 30, 2021.



James E. Timberland
Administrative Law Judge

August 16, 2021
Decision Dated and Mailed

jet/lj