

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LACY S DOYLE
Claimant

HAND IN HAND DAYCARE
Employer

APPEAL 20A-UI-13539-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (2R)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

On October 29, 2020, the claimant filed an appeal from the October 20, 2020, (reference 02) unemployment insurance decision that denied benefits effective June 28, 2020. The parties were properly notified about the hearing. A telephone hearing was held on December 29, 2020. Claimant participated. Employer did not register for the hearing and did not participate. Claimant's Exhibit A was received.

ISSUES:

Is the claimant totally, partially, or temporarily unemployed?
Is the claimant able to and available for work?
Is the claimant still employed at the same hours and wages?
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: Claimant has worked for employer since August 2018 as a part-time childcare worker. Employer hired claimant to work five days per week in its before and after school care program.

Prior to March 2020, claimant worked 20 to 25 hours per week.

In March 2020, the United States declared a public health emergency due to the COVID 19 pandemic. The before and after care program was closed initially. Employer assigned claimant to work in its daycare centers for one or two shifts per week. Claimant's hours were greatly reduced.

In June 2020, employer was allowed back in the schools to run a care program, but because many students were staying home with their parents, employer did not require as many staff

members. Employer began to assign claimant to work about 15 hours per week through the end of her employment, which was mid-August 2020.

Claimant has not filed any weekly claims for benefits after her employment ended.

Claimant was paid \$10.00 per hour and her weekly benefit amount is \$217.00.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.19(38) 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.

Here, claimant worked in her regular job at reduced hours and even when her hours were bumped back up to 15 per week, earned less than her weekly benefit amount plus 15 dollars. Claimant has established that she was partially unemployed, and therefore is not required to establish she is able to and available for work.

Because employer was offering less hours, its account would be charged under normal circumstances. In this case, though, employer was offering less hours directly because of the pandemic. Therefore, this case will be remanded to the Tax Bureau of Iowa Workforce Development so employer can be relieved of charges in accordance with the policy announced by Iowa Workforce Development at the beginning of the pandemic.

DECISION:

The October 20, 2020, (reference 02) unemployment insurance decision is reversed. The claimant is able to work and available for work effective March 29, 2020. Regular unemployment insurance benefits funded by the state of Iowa are allowed, provided claimant is otherwise eligible.

REMAND:

The issue of whether employer should be relieved of benefit charges on this claim as claimant's hours were reduced directly because of the pandemic is remanded to the Tax Bureau of Iowa Workforce Development.



Christine A. Louis
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January 15, 2021
Decision Dated and Mailed

cal/scn