

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KERRI A LADEHOFF
Claimant

APPEAL NO. 20A-UI-07737-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARROLL COMM SCHOOL DISTRICT
Employer

OC: 03/22/20
Claimant: Respondent (4)

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.19(38) – Temporary Unemployment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 2, 2020, reference 01, decision that allowed benefits to the claimant beginning March 22, 2020, provided she was otherwise eligible, based on the deputy's conclusion that the claimant was able to work, available for work, but on a short-term layoff. After due notice was issued, a hearing was held on August 13, 2020. Claimant Kerri Ladehoff participated. Gary Bengtson represented the employer. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUES:

Whether the claimant was able to work and available for work for the period beginning March 22, 2020.

Whether the claimant was temporarily unemployed for the period beginning March 22, 2020.

Whether the employer's account may be charged for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Kerri Ladehoff was most recently employed by the Carroll Community School District as a substitute teacher associate. Ms. Ladehoff began this most recent period of employment in August 2019 and last performed work for the employer on March 12, 2020. At that time, Ms. Ladehoff was scheduled to perform additional substitute work on March 26, March 31 and April 1, 2020. On March 15, 2020, Ms. Ladehoff received an automated phone message that the District was closing its campuses in connection with the COVID-19 pandemic. The District's campuses remained closed through the scheduled end of the school year, May 24, 2020. During the campus shutdown, Ms. Ladehoff remained available for additional work with the District and assumed the District would have additional substitute work for her in the Fall 2020 academic term. Iowa Workforce Development records reflect that Ms. Ladehoff performed substitute work for District during each calendar quarters between the third quarter of 2019 and the second quarter of 2020.

Ms. Ladehoff established an original claim for unemployment insurance benefits that was effective March 22, 2020. Iowa Workforce Development set her weekly benefit amount at \$332.00. By the time of the August 13, 2020 appeal hearing, Ms. Ladehoff had made consecutive weekly claims for the 20 weeks between March 22, 2020 and August 8, 2020. For each of the weeks between March 22, 2020 and May 16, 2020, Ms. Ladehoff reported zero wages and received \$332.00 in regular benefits. For the week that ended May 23, 2020, Ms. Ladehoff reported \$150.00 in wages that were actually her income from self-employment and received \$265.00 in regular benefits. For each of the weeks between May 24, 2020 and June 13, 2020, Ms. Ladehoff reported zero wages and received \$332.00 in regular benefits. For the week that ended June 20, 2020, Ms. Ladehoff reported zero wages and received \$184.11 in regular benefits. Ms. Ladehoff exhausted regular benefits during the week that ended June 20, 2020. For each of the weeks between June 21, 2020 and July 25, 2020, Ms. Ladehoff reported zero wages and received \$332.00 in Pandemic Emergency Unemployment Compensation (PEUC) benefits. For the weeks that ended August 1, 2020 and August 8, 2020, Ms. Ladehoff reported zero wages and received no unemployment insurance benefits. For each of the 16 weeks between March 29, 2020 and July 18, 2020, Ms. Ladehoff also received \$600.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits.

The “base period” for purposes of the claim for benefits that was effective March 22, 2020 consists of the fourth quarter of 2018 and the first, second and third quarters of 2019. Carroll Community School District is the sole base period employer in connection with the claim. Ms. Ladehoff’s base period wage credits for the fourth quarter of 2018 and the first quarter of 2019 are based on full-time employment with the District. There were no wages or wage credits for the second quarter of 2019. The wage credits for the third quarter of 2019 are based on the substitute work that started in August 2019. During the earlier, decades-long employment that ended in the first quarter of 2019, Ms. Ladehoff worked for the District on a full-time basis. Ms. Ladehoff voluntarily separated from that full-time employment in response to an impasse regarding proposed changes to Ms. Ladehoff’s position and based in part on Ms. Ladehoff’s desire to pursue self-employment as a personal fitness trainer. Ms. Ladehoff’s spouse owns a fitness center. At the time Ms. Ladehoff left the full-time employment, she planned to return as a substitute worker. Pursuant to District policies, Ms. Ladehoff had to be away from District employment for six months before she could return.

In June 2020, Ms. Ladehoff applied for and interviewed for a full-time Student Information Specialist Position with the District. The duties represented one aspect of the work Ms. Ladehoff had performed for the District in her previous full-time employment with the District. The District offered Ms. Ladehoff the job and Ms. Ladehoff accepted. The proposed start date was June 29, 2020. A week before the proposed start date, the District Superintendent, rescinded the offer of employment at the School Board’s directive. Ms. Ladehoff subsequently applied for and, on August 12, 2020, accepted full-time employment with the Iowa Department of Education. The proposed start date for that employment is September 1, 2020.

At the time of the August 13, 2020 appeal hearing, Ms. Ladehoff advised that she had recently received a decision from Iowa Workforce Development that denied benefits between academic terms.

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 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.

The weight of the evidence in the record establishes that Ms. Ladehoff has been able to work and available for work at all times since she established the original claim for benefits that was effective March 22, 2020, but that she has been temporarily laid off since March 15, 2020. Ms. Ladehoff has not limited her availability to part-time, substitute work and her base period wage credits are not primarily based on on-call, substitute work. The District's March 15, 2020 COVID-19 shutdown brought to an abrupt end any thought of Ms. Ladehoff continuing to perform the same work for the remainder of the school year that she had been performing up to that point and in fact cancelled several scheduled work days. Ms. Ladehoff is eligible for benefits for the period beginning March 22, 2020, provided she meets all other eligibility requirements.

The District's abrupt closure of campuses and lack of substitute work were based on COVID-19. In response to the economic impact of the COVID-19 pandemic, Iowa Workforce Development published on its website Unemployment Insurance Guidance for Employers and Workers. As part of that publication, the Agency announced that claims filed as a direct or indirect result of Covid-19 would not be charged to employers. See <https://www.iowaworkforcedevelopment.gov/COVID-19#ife>, Information for Employers. Based on this Agency pronouncement, the employer's account will not be charged for benefits paid to the claimant for the period beginning March 22, 2020.

DECISION:

The July 2, 2020, reference 01, decision is modified in favor of the employer/appellant as follows. The claimant has been able to work, available for work, but temporarily laid off since she established the claim for benefits that was effective March 22, 2020. The claimant is eligible for benefits for the period beginning March 22, 2020, provided she meets all other eligibility requirements. The employer's account shall not be charged for benefits in connection with this COVID-19 based claim.



James E. Timberland
Administrative Law Judge

August 28, 2020
Decision Dated and Mailed

jet/sam