

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NOAH B BACCAM
Claimant

BOYS CLUB OF DES MOINES
Employer

APPEAL 20A-UI-07396-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/19/20
Claimant: Appellant (2)

Iowa Code § 96.19(38) – Total, partial unemployment
Iowa Code § 96.7(2)a(2) – Charges – Same base period employment

STATEMENT OF THE CASE:

On July 2, 2020, Noah Baccam (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated June 30, 2020 (reference 01) that denied benefits.

A telephone hearing was held on August 7, 2020. The parties were properly notified of the hearing. Claimant participated personally and was represented by his father, Say Baccam. Boys Club of Des Moines (employer/respondent) participated by COO Greg Grant.

Claimant's Exhibits 1-3 were admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. 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 began working for employer on May 14, 2018. Claimant is still employed by employer part-time as a youth development professional. Claimant had no guarantee of specific hours. However, he had established a pattern of working 20-25 hours per week prior to the pandemic.

When the pandemic hit, employer intended to continue to pay claimant his average wages, even though not as much work was available. However, claimant was not paid for 20-25 hours per week in the weeks ending June 13 and June 20, during which period he was paid for just 12.5 hours total; for the weeks ending May 30 and June 6, during which period he was paid for just 20 hours total; and for the weeks ending April 4 and April 11, during which he was paid for just 20 hours total. Claimant earned \$10.00 per hour, so he was paid an average of \$100.00 or less each of those weeks. His weekly benefit amount is \$148.00.

Claimant was furloughed from June 12 until July 8, 2020, during which no work was available and he was not paid. Claimant returned to work on or about July 8 and has since worked at least 20-25 hours per week. Claimant has filed a weekly claim each week from the benefit week ending April 25, 2020 and continuing through the benefit week ending July 4, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated June 30, 2020 (reference 01) that denied benefits is REVERSED. Claimant is eligible for benefits as set forth below, provided he meets all other eligibility requirements.

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.

Iowa Code section 96.7(2)a(2) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the 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. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

Claimant was partially unemployed in the benefit weeks ending April 4, April 11, May 30, June 6, and June 13, as he was working less than established during his prior pattern of employment and was earning less than his weekly benefit amount plus \$15.00. Claimant was totally unemployed in the benefit weeks ending June 20, June 27, and July 4, as he performed no services and no wages were payable to him during those weeks. Because during these weeks claimant was not receiving the same employment from employer as during the base period, employer's account is subject to charge.

DECISION:

The decision dated June 30, 2020 (reference 01) that denied benefits is REVERSED. Claimant was partially unemployed in the benefit weeks ending April 4, April 11, May 30, June 6, and June 13. Claimant was totally unemployed in the benefit weeks ending June 20, June 27, and July 4. Claimant is eligible for benefits for each of those weeks, provided he otherwise meets all eligibility requirements. Employer's account is subject to charge.



Andrew B. Duffelmeyer
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August 14, 2020
Decision Dated and Mailed

abd/sam