

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KAREN D RICHTER
Claimant

APPEAL 20A-UI-09931-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA CATHOLIC CONFERENCE
Employer

OC: 03/29/20
Claimant: Appellant (4)

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 § 96.19(38) – Total, Partial, and Temporary Unemployment
Iowa Code § 96.7(2)a(2) – Employer Chargeability

STATEMENT OF THE CASE:

On August 21, 2020, Karen D. Richter (claimant) filed an appeal from the August 17, 2020, reference 02, unemployment insurance decision that denied benefits effective March 29, 2020, based upon the determination she was still employed at the same hours and wages. After due notice was issued, a telephone hearing was scheduled to be held on October 2, 2020. Both parties registered for the hearing, but no hearing was held, as there was sufficient information in the appeal and administrative record and no testimony was needed.

ISSUES:

Is the claimant able to work and available for work effective March 29, 2020?
Does the claimant meet the definition of being considered partially unemployed?
If so, is the employer's account liable for potential charges?

FINDINGS OF FACT:

Having reviewed the administrative record and appeal letter, the administrative law judge finds: The claimant filed her claim for benefits effective March 29, 2020, and the base period includes wage credits earned between October 1, 2018 and September 30, 2019. In addition to this employer, the claimant also has a full-time employer and another part-time employer. She was laid off from her full-time employment due to the COVID-19 pandemic. She currently works for this employer part-time, under the same terms and conditions as contemplated at hire.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was partially unemployed and this part-time employer is relieved of benefit charges.

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.

Iowa Code section 96.7(2)a(2)(a), (b), and (c) provides:

Employer contributions and reimbursements.

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.

(b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(c) The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

Iowa Admin. Code r. 871-23.43(4)a provides, in part:

Charging of benefits to employer accounts.

(4) Supplemental employment.

a. An individual, who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer, continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges....

The claimant is partially unemployed because she has other base-period wages with a full-time employer, and she is currently employed part-time with this employer. Partial benefits are allowed, if she is otherwise eligible. As the current part-time employer is offering the same wages and hours as in the base period and contemplated at hire, no benefit charges shall be made to its account.

For any week of benefits claimed, the claimant must report gross wages earned that week to establish whether or not she is eligible for partial unemployment benefits.

DECISION:

The August 17, 2020, reference 02, unemployment insurance decision is modified in favor of the appellant. The claimant is partially unemployed and benefits are allowed, provided she is

otherwise eligible. The account of the current part-time employer, Iowa Catholic Conference, formerly known as Spencer-Sacred Heart, (account number 108530) shall not be charged. The claimant should report gross wages for the week in which they are earned for the purpose of establishing continuing eligibility for partial unemployment benefits.



Stephanie R. Callahan
Administrative Law Judge

October 5, 2020
Decision Dated and Mailed

src/sam