

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BONNIE C SCHERF
Claimant

APPEAL 21A-UI-06017-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DUBUQUE HOLY FAMILY CATHOLIC
Employer

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

Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.7(2)a(2) – Employer Contributions and Reimbursements

STATEMENT OF THE CASE:

On February 22, 2021, the employer, Dubuque—Holy Family Catholic, filed an appeal on behalf of the claimant, Bonnie C. Scherf, from the February 12, 2021 (reference 01) unemployment insurance decision that denied benefits effective March 22, 2020, based upon a determination that claimant was still employed at the same hours and wages and was not eligible for benefits.

The administrative law judge reviewed the appeal and the administrative record and was able to resolve the issue in claimant's favor with no prejudice to the employer without the need for a hearing.

ISSUE:

Is the claimant totally unemployed effective March 22, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant worked for the employer. Between March 22 and June 4, 2020, claimant was off work due to the COVID-19 pandemic. Governor Reynolds had issued a proclamation closing K-12 schools in Iowa, and there was no work available for claimant once the school was closed.

The employer issued claimant and other non-certified staff a letter of assurance regarding employment for the coming 2020-21 school year. Claimant stopped filing for benefits after the week ending May 30, 2020.

Claimant is listed as Group Code 8, which currently indicates that she is unemployed because of the pandemic. Under this group code, claimant is still attached to the employer but is not able to work due to the pandemic, and the employer is relieved of any charges.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was totally unemployed due to the pandemic. The underlying decision is modified in favor of the claimant.

Iowa Code § 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.

Iowa Code § 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".

Here, claimant was totally unemployed for the remainder of the school year effective March 22, 2020. This total unemployment was a result of Governor Reynolds closing Iowa's K-12 schools due to the COVID-19 pandemic. Claimant was otherwise able to and available for work. Benefits are allowed effective March 22, 2020, and until May 30, 2020. As claimant is classified as Group Code 8, the employer's account is not being charged for benefits paid to claimant Bonnie C. Scherf.

DECISION:

The February 12, 2021 (reference 01) unemployment insurance decision is modified in favor of claimant. Claimant was totally unemployed and was able to and available for work effective March 22, 2020, and until May 30, 2020. Benefits are allowed, provided claimant is otherwise eligible.



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April 05, 2021
Decision Dated and Mailed

lj/ol