

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DARCI PLAGMAN
Claimant

APPEAL 20A-UI-15905-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

COLLEGE COMMUNITY SCHOOL DISTRICT
Employer

**OC: 08/09/20
Claimant: Respondent (2)**

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 December 2, 2020, the claimant filed an appeal from the November 23, 2020, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 28, 2021. Claimant did not register for the hearing and did not participate. Employer participated through executive director of human resources Jeri Mortiz. Employer's Exhibit 1 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 as a full-time administrative assistant since September 6, 2016. Claimant filed a claim for unemployment insurance benefits for the one week ending August 15, 2020. The school district was closed due to the derecho that hit Cedar Rapids, Iowa on August 10, 2020. Employer paid claimant for three days of work and gave claimant the option of using paid time off or taking unpaid leave for the other two days. Claimant decided to take unpaid leave. Employer paid claimant wages in the gross amount of \$510.72 for the week. Claimant's weekly benefit amount is \$417.00. Claimant reported \$192.00 in wages for the week and received an unemployment insurance benefit payment in the amount of \$329.00.

Claimant returned to her regular hours the next week.

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.

In this case, employer did not have work available for claimant because the school district was shut down due to a derecho. However, employer paid claimant gross wages that are much higher than \$15.00 above her weekly benefit amount. Therefore, claimant was not eligible for unemployment insurance benefits effective August 9, 2020.

DECISION:

The November 23, 2020, (reference 01) unemployment insurance decision is reversed. The claimant is not eligible for benefits effective August 9, 2020. Claimant was paid in an amount much higher than her weekly benefit amount plus 15 dollars. Benefits are denied.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

February 12, 2021
Decision Dated and Mailed

cal/kmj

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.