

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KAYLEE M LAMB
Claimant

**PRAIRIE MEADOWS RACETRACK &
CASINO**
Employer

APPEAL 20A-UI-08696-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Code § 96.19(38) – Total, partial unemployment

STATEMENT OF THE CASE:

On July 22, 2020, Prairie Meadows Racetrack & Casino (employer/appellant) filed a timely appeal from the July 15, 2020 (reference 02) unemployment insurance decision that allowed benefits beginning March 29, 2020, based on a finding claimant was able and available for work during a short-term layoff.

A telephone hearing was held on September 3, 2020. The parties were properly notified of the hearing. Kaylee Lamb (claimant/respondent) did not register a number for the hearing and did not participate. Employer participated by HR Generalist Pam Anderson.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?
- III. 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 April 17, 2019. Claimant is still employed by employer part-time as a bartender. Employer closed from March 16, 2020 until May 2, 2020 due to the pandemic. Claimant was still paid by employer during this time based on her history of wages and tips, even though she was not performing work. Claimant was not working or being paid from May 3, 2020 until June 12, 2020, when she was recalled to work. She has returned to her normal pattern of work since that time.

Claimant first filed a claim for the benefit week ending April 4, 2020. Claimant was paid \$498.77 for the two-week period from March 22 through April 4, an average of \$249.39 per week. She was paid \$581.09 for the two-week period from April 5 through April 18, an average of \$290.55 per week. She was paid \$594.17 for the two-week period from April 19 through May 2, an average of \$297.09 per week.

Claimant's weekly benefit amount is \$232.00. Claimant reported wages in the amount of \$624.00 in the benefit week ending June 20 and \$315.00 for the benefit week ending June 27, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the July 15, 2020 (reference 02) unemployment insurance decision is MODIFIED in favor of appellant.

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.

Claimant was not totally, partially, or temporarily unemployed and therefore ineligible for benefits from the benefit week ending April 4, 2020 and continuing through the benefit week ending May 2, 2020. This is because for each of those weeks claimant was paid wages in excess of her weekly benefit amount plus \$15.00.

She was totally unemployed from the benefit week ending May 9, 2020, and continuing through the benefit week ending June 13, 2020, as she performed no work and no wages were payable to her. She was not unemployed after that time, as she returned to her normal pattern of work at that time.

DECISION:

The July 15, 2020 (reference 02) unemployment insurance decision is MODIFIED in favor of appellant. Claimant was not totally, partially, or temporarily unemployed and therefore ineligible for benefits from the benefit week ending April 4, 2020 and continuing through the benefit week ending May 2, 2020. She was totally unemployed from the benefit week ending May 9, 2020, and continuing through the benefit week ending June 13, 2020. She was not unemployed after that time, as she returned to her normal pattern of work at that time.



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

September 9, 2020
Decision Dated and Mailed

abd/sam

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.