

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CANDISE N ROBINSON
Claimant

APPEAL NO. 19A-UI-03898-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GREENSTATE CREDIT UNION
Employer

OC: 03/22/20
Claimant: Appellant (1)

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.19(38)(b) – Partial Unemployment
Iowa Code Section 96.3(7) – Recovery of Overpaid Benefits
Public Law 116-136, Section 2104(b) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Candise Robinson filed a timely appeal from the May 5, 2020, reference 01, decision denying benefits effective March 22, 2020, based on the deputy's conclusion that Ms. Robinson was still employed for the same hours and wages and could not be considered partially unemployed. After due notice was issued, a hearing was held on May 28, 2020. Ms. Robinson participated. The employer did not provide a telephone number for the hearing and did not participate. Exhibits A, B, and C were received into evidence. The administrative law judge took official notice of the following Agency's administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUES:

Whether Ms. Robinson has been able to work and available for work within the meaning of the law since March 22, 2020.

Whether Ms. Robinson has been partially unemployed and/or temporarily unemployed within the meaning of the law since March 22, 2020.

Whether Ms. Robinson has been overpaid regular state benefits.

Whether Ms. Robinson has been overpaid Federal Pandemic Unemployment Compensation.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Candise Robinson established an original claim for benefits that was effective March 22, 2020. Iowa Workforce Development set Ms. Robinson's weekly benefit amount at \$518.00. Since Ms. Robinson established her claim for benefits, she has reported wages and received regular state benefits as follows:

<u>Benefit Week End Date</u>	<u>Wages Reported</u>	<u>State Benefits Paid</u>
03/28/20	215.00	303.00
04/04/20	699.00	0.00
04/11/20	559.00	0.00

04/18/20	0.00	518.00
04/25/20	739.00	0.00
05/02/20	0.00	0.00
05/09/20	663.00	0.00
05/16/20	0.00	0.00
05/23/20	0.00	0.00

Ms. Robinson received \$600.00 in Federal Pandemic Unemployment Compensation for the week that ended April 18, 2020.

Since Ms. Robinson established her claim for benefits, she has continued in full-time employment with Greenstate Credit Union. Ms. Robinson's established work hours at Greenstate are 8:30 a.m. to 5:30 p.m., Monday through Friday. Ms. Robinson also works a Saturday shift on a rotating basis. Ms. Robinson's hourly wage at Greenstate, as of January 2020, is \$18.47. Ms. Robinson's regular full-time weekly wages at Greenstate are \$738.80. Ms. Robinson's previous wage at Greenstate was \$17.47. Greenstate has not decreased Ms. Robinson's wage and has not decreased the amount of work hours it has available for Ms. Robinson. Since Ms. Robinson filed her claim for benefits, she has continued to take intermittent leave under the Family and Medical Leave Act, for which time she has been compensated at the rate of 80 percent of the regular wage.

When Ms. Robinson made her weekly claims for the weeks that ended March 28, April 18, May 2, May 16 and May 23, 2020, she omitted Greenstate wages. At the time of the appeal hearing, Mr. Robinson provided the following Greenstate wage history for the period beginning March 22, 2020:

<u>Benefit Week End Date</u>	<u>Greenstate Wages</u>
03/28/20	738.80
04/04/20	698.80
04/11/20	559.00
04/18/20	664.60
04/25/20	738.80
05/02/20	738.80
05/09/20	663.00
05/16/20	591.20
05/23/20	591.20

Ms. Robinson established her claim for benefits in response to a March 25, 2020 lay-off from a second employer, Bath and Body Works. The \$215.00 in wages that Ms. Robinson initially reported for the week that ended March 28, 2020 were wages from Bath and Body Works. All other wages since the filing of the claim have been from Greenstate.

REASONING AND CONCLUSIONS OF LAW:

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 Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

An individual shall be deemed partially unemployed in any week in which, 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. Iowa Code Section 96.19(38)(b).

Iowa Code section 96.7(1) and (2) provides, in relevant part, as follows:

Employer contributions and reimbursements.

1. Payment. Contributions accrue and are payable, in accordance with rules adopted by the department, on all taxable wages paid by an employer for insured work.

2. Contribution rates based on benefit experience.

a. (1) The department shall maintain a separate account for each employer and shall credit each employer's account with all contributions which the employer has paid or which have been paid on the employer's behalf.

(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.

Since Ms. Robinson filed the claim that was effective March 22, 2020, she has continued to work full-time with Greenstate and has consistently been paid weekly wages that exceed her \$518.00 weekly benefit amount by more than \$15.00. Based on the continued full-time employment, Ms. Robinson cannot be deemed unemployed within the meaning of the law and does not meet the "availability" requirement. Based on the continued full-time employment, and based on the weekly wages that exceed the weekly benefit amount by more than \$15.00, Ms. Robinson is not partially unemployed within the meaning of the law. Benefits are denied effective March 22, 2020. The availability and partial unemployment disqualifications continued from March 22, 2020 through the May 28, 2020 appeal hearing date. The availability and partial unemployment disqualifications shall continue in place so long as Ms. Robinson continues to receive the same full-time employment with Greenstate. Ms. Robinson must meet all other eligibility requirements.

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, Workforce Development must recover the benefits and the claimant must repay the benefits, even if the claimant was not at fault in receiving the benefits.

Because this decision affirms the disqualification decision, the regular state benefits Ms. Robinson received for the week that ended March 28, 2020 and for the week that ended April 18, 2020 are an overpayment of benefits. Ms. Robinson must repay the \$821.00 in state benefits.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Because the claimant is disqualified from receiving regular unemployment insurance (UI) benefits, the claimant is also disqualified from receiving Federal Pandemic Unemployment Compensation (FPUC). The \$600.00 in FPUC benefits the claimant received for the benefit week ending April 18, 2020 constitutes an overpayment of benefits. Claimant is required to repay those benefits.

DECISION:

The May 5, 2020, reference 01, decision is affirmed. Due to her continued full-time employment and full-time wages from Greenstate Credit Union, the claimant has not met the availability requirement and has not been partially unemployed since she established the original claim that was effective March 22, 2020. Benefits are denied effective March 22, 2020. The availability and partial unemployment disqualifications continued from March 22, 2020 through the May 28, 2020 appeal hearing date. The availability and partial unemployment disqualifications shall continue in place so long as the claimant continues to receive the same full-time employment with Greenstate. The claimant must meet all other eligibility requirements. The claimant is overpaid the \$821.00 in state benefits for the weeks that ended March 28, 2020 and April 18, 2020. The claimant is overpaid \$600.00 in Federal Pandemic Unemployment Compensation for the week that ended April 18, 2020. The claimant must repay the overpaid state and federal benefits.



James E. Timberland
Administrative Law Judge

June 11, 2020
Decision Dated and Mailed

jet/sam