

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CATHERINE UNRUH
Claimant

THE UNIVERSITY OF IOWA
Employer

APPEAL 21A-UI-05945-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/26/20
Claimant: Appellant (1R)

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.19(38)b – Total, Partial, Temporary Unemployment

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the February 11, 2021 (reference 01) unemployment insurance decision that concluded the claimant was not eligible for benefits effective December 27, 2020 because she was still employed in her job at the same hours and same wages as her original contract of hire. The parties were properly notified of the hearing. A telephone hearing was held on April 28, 2021. The claimant participated personally. The employer participated through witness Logan Stevens. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUE:

Is the claimant able to and available for work effective December 27, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed as a full-time academic clinical program management services specialist. She was hired on February 5, 2015 and continues to work in that full-time role to date.

The claimant filed an initial claim for unemployment insurance benefits with an effective date of July 26, 2020. The employer instituted a policy wherein the claimant was required to take two one-week unpaid furloughs due to budgetary constraints. Claimant filed a weekly-continued claim for benefits ending August 1, 2020 when she was on one of the two one-week furloughs.

Claimant was again on an unpaid one-week furlough from December 20, 2020 through December 26, 2020. Claimant did not file an additional claim for unemployment insurance benefits until December 27, 2020. By December 27, 2020, the claimant has been back to work in her full-time position.

The issue of whether the claimant's additional claim for benefits should be backdated prior to December 27, 2020 will be remanded to the Benefits Bureau for an initial investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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", subparagraph (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 § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

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 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.

Claimant's additional claim was not filed until December 27, 2020. By that date, the claimant was back to working full-time and was not able to and available for work nor totally, partially or temporary unemployed. As such, unemployment insurance benefits are denied effective December 27, 2020 due to the claimant not being able to and available for work pursuant to Iowa Code § 96.4(3).

The issue of whether the claimant's additional claim for benefits should be backdated prior to December 27, 2020 will be remanded to the Benefits Bureau for an initial investigation and determination.

DECISION:

The February 11, 2021 (reference 01) unemployment insurance decision is affirmed. Unemployment insurance benefits funded by the State of Iowa are denied effective December 27, 2020 as the claimant was not able to and available for work.

REMAND:

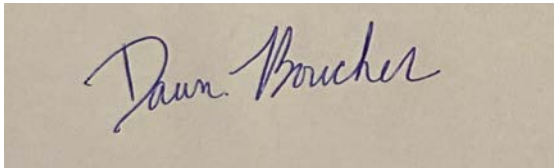
The issue of whether the claimant's additional claim for benefits should be backdated prior to December 27, 2020 will be remanded to the Benefits Bureau for an initial investigation and determination.

Note to Claimant

- If this decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. 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.
- If you do not qualify for regular unemployment insurance benefits funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance (PUA) section of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) that discusses eligibility for claimant who are unemployed due to the Coronavirus public health emergency.
- You will need to apply for PUA benefits to determine your eligibility under the program. For additional information on how to apply for PUA go to: <https://www.iowaworkforcedevelopment.gov/pua-information>
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA benefits please visit: <https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to "Submit Proof Here." You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments of PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:

<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>

- If you have applied for PUA benefits and have been approved for PUA benefits, this decision will not negatively affect your PUA benefits.

A handwritten signature in blue ink on a light brown background. The signature reads "Dawn Boucher" in a cursive script.

Dawn Boucher
Administrative Law Judge

May 5, 2021
Decision Dated and Mailed

db/scn