

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RAMON PONCE
Claimant

ENGINEERED PLASTIC COMPONENTS INC
Employer

APPEAL 20A-UI-10536-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The claimant/appellant, Ramon Ponce, filed an appeal from the August 24, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on October 16, 2020. The claimant participated. The employer, Engineered Plastic Components Inc., participated through Stacy Moore, human resources assistant.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Does the claimant meet the definition of being considered partially unemployed?
Is the claimant able to work and available for work effective April 5, 2020?
If so, is the employer’s account liable for potential charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has worked full-time for this employer as a technician since 2007. He earns \$17.50 per hour and works usually forty hours per week. Claimant established his claim for benefits with an effective date of April 5, 2020 in response to a reduction in hours at work. Claimant’s weekly benefit amount is \$438.00. Employer stated the reduction in hours was due to COVID-19.

Claimant worked all available hours each week except for the period of June 1-10, 2020, when he had to self-quarantine after his stepson tested positive for COVID-19.

Claimant performed work each week except the week ending May 2, 2020 when no work was available.

Claimant reported all gross wages earned each week.

The employer reported the following hours for the claimant each week:

04/11/20	24 hours
04/18/20	32 hours
04/25/20	8 hours regular plus 8 hours vacation
05/02/20	0 hours
05/09/20	32 hours
05/16/20	24 hours
05/23/20	24 hours
05/30/20	32 hours regular plus 8 hours holiday
06/06/20	14.25 hours (Out sick due to COVID-quarantine)
06/13/20	24 hours
06/20/20	32 hours
06/27/20	24 hours
07/04/20	16 hours plus 8 hours holiday
07/11/20	40 hours regular plus 8 hours OT
07/18/20	40 hours
07/25/20	40 hours
08/01/20	40 hours
08/15/20	24 hours
08/22/20	32 hours plus 8 hours vacation
08/29/20	32 hours plus 8 hours vacation
09/05/20	24 hours plus 8 hours vacation
09/12/20	24 hours plus 8 hours holiday
09/19/20	40 hours
09/26/20	40 hours
10/03/20	37 hours

REASONING AND CONCLUSIONS OF LAW:

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 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 96.1A, 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 Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deductions shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code § 96.3, 96.4 and 96.19(38).

Iowa Code section 96.7(2)a(2)(a), (b), and (c) provides:

2. Contribution rates based on benefit experience.

a. (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.

(b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(c) The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

For a totally unemployed individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that he is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

Iowa Admin. Code r. 871-24.23(29) provides:

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

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

Claimant worked all available hours except for the period of June 1-June 10, 2020 (impacting his claim for the week ending June 6, 2020) when he did not perform work due to self-quarantining. Benefits are denied for this week only.

For the week ending May 2, 2020, claimant worked zero hours and therefore was totally unemployed. Benefits are allowed, provided claimant is otherwise eligible.

For the weeks ending April 11, May 16, 23, June 13, 27, July 4 and August 15, 2020, claimant meets the definition of partially unemployed. Benefits are allowed, provided he is otherwise eligible.

For all other weeks, the claimant earned wages in excess of his weekly-benefit amount, plus fifteen dollars. Because the claimant has earned wages in excess of his weekly-benefit amount, plus fifteen dollars, he cannot be considered partially unemployed for those weeks. Iowa Code 96.19(38) and Iowa Admin. Code r. 871-24.18.

DECISION:

The unemployment insurance decision dated August 24, 2020, (reference 01) is modified in favor of the claimant/appellant. The claimant was not able to and available for work for the week ending June 6, 2020 due to self-isolation. Benefits are denied for this week.

Claimant was totally or partially unemployed for the weeks ending April 11, May 2, May 16, 23, June 13, 27, July 4 and August 15, 2020. Benefits are allowed for these weeks only, provided claimant is otherwise eligible.

For all other weeks, the claimant earned wages in excess of his weekly-benefit amount, plus fifteen dollars. Because the claimant has earned wages in excess of his weekly-benefit amount, plus fifteen dollars, he cannot be considered partially unemployed for those weeks. Iowa Code 96.19(38) and Iowa Admin. Code r. 871-24.18.



Jennifer L. Beckman
Administrative Law Judge
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1000 East Grand Avenue
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Fax 515-478-3528

October 20, 2020
Decision Dated and Mailed

jlb/sam

Note to Claimant: This decision denies benefits for some weeks you filed weekly continued claims. *If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of 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>.