

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DOMINIQUE C CULLOM**  
Claimant

**LONGHOUSE NORTSHIRE LTD**  
Employer

**APPEAL 21A-UI-11423-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/21/20**  
**Claimant: Appellant (1)**

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Iowa Code § 96.4(3) – Able to and Available for Work  
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:**

The claimant/appellant, Dominique C. Cullom, filed an appeal from the May 11, 2021 (reference 05) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits.

The parties were properly notified about the hearing. A telephone hearing was held on July 12, 2021. The hearing was held together with Appeals 21A-UI-11420-JC-T and 21A-UI-11422-JC-T. The claimant participated. The employer participated through Rosemary Hibbs, former DON/future administrator. Linda Ragland also participated. 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.

**ISSUE:**

Was the claimant able and available for work effective August 30, 2020?  
Does the claimant meet the definition of being considered partially unemployed?  
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: Claimant began employment August 2, 2019 as a full-time CNA.

Effective June 20, 2020, claimant requested to go PRN/on-call due to a lack of childcare. Her rate of pay at the time was \$14.85 per hour. Claimant then requested to go back to part-time employment at the end of August 2020 when her children returned to school. Claimant was not guaranteed a set number of hours or shifts as a part-time employee. Claimant agreed to the arrangement.

Claimant worked part-time until April 1, 2021 when she reported to the employer that she was under medical care for her back. She has not filed any report or worker’s compensation claim.

Claimant remains under medical care and is anticipating back surgery soon. Claimant has not been released to return to work. Employer has had work available to claimant.

Claimant has made weekly continued claims each week since establishing a claim for benefits effective June 20, 2020, which coincides with claimant's request to go part-time.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is not eligible for benefits effective August 30, 2020. Regular, state-funded benefits are denied.

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 § 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 Admin. Code r. 871-24.23(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

Claimant in this case was hired full-time, and requested to go on-call, and then to part-time effective August 30, 2020. Because the claimant asked to work only part-time hours and was not guaranteed full-time hours, the claimant is not considered to be unemployed within the meaning of the law. When an individual agrees to work part-time, the implied agreement is that full-time work will not be regularly available. Thus, since the employer continued to provide regular part-time hours and claimant was employed under the same hours and wages as contemplated when she requested to reduce her hours from full-time, she is not considered partially unemployed. Benefits are denied.

**DECISION:**

The unemployment insurance decision dated May 11, 2021, (reference 05) is affirmed. The claimant is not able and available for work effective August 30, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time the claimant is able to and available for work.



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Jennifer L. Beckman  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

July 22, 2021

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Decision Dated and Mailed

jlb/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 unemployed or continue to be 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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

**ATTENTION:**

On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>