

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MAAB B OSMAN
Claimant

SUKUP MANUFACTURING CO.
Employer

**APPEAL 20A-UI-12514-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/26/20
Claimant: Respondent (2)**

Iowa Code § 96.19(38) – Definitions – Total, partial unemployment
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Code § 96.7(2)A(2) – Charges – Same base period employment
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Employer filed an appeal from the October 8, 2020 (reference 03) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on December 9, 2020, at 2:00 p.m. Claimant did not participate. Employer participated through Mary Amsbaugh, Human Resources Generalist. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant is totally, partially or temporarily unemployed.
Whether claimant is able to and available for work.
Whether claimant is still employed at the same hours and wages.
Whether employer's account is subject to charge.
Whether claimant was overpaid benefits.
Whether claimant is eligible for Federal Pandemic Unemployment Compensation

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time Quality Control Worker from May 26, 2020 until her employment with Sukup Manufacturing ended on August 7, 2020. Claimant worked Monday through Friday from 6:30 a.m. until 3:30 p.m.

On or about June 19, 2020, claimant notified employer that she had Covid-19 symptoms. Employer required claimant to quarantine for two weeks according to the Center for Disease Control guidelines. Claimant quarantined and performed no work for employer from June 19, 2020 through June 29, 2020. Employer paid claimant 70% of her wages during quarantine. Claimant received gross wages of \$520.00 per week (5.95 hours per day x five days per week x \$17.50 per hour). Claimant returned to work for employer after completing the quarantine.

Claimant filed an additional claim for benefits effective June 28, 2020. Claimant's weekly benefit amount is \$212.00. Claimant did not file ongoing weekly claims for benefits for the period of time that she was quarantined; therefore, claimant received no benefits.

REASONING AND CONCLUSIONS OF LAW:

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

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.

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. 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 difference from the contract for hire, such claimant cannot be considered partially unemployed.

Iowa Code section 96.7(2)a(2) 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.

From June 19, 2020 through June 29, 2020, claimant received wages and, thus, was not totally or temporarily unemployed. During that time, claimant worked less than her full-time hours for employer, but received wages in excess of her weekly benefit amount (\$212.00) plus \$15.00. Therefore, claimant is not considered partially unemployed. Benefits are denied.

Because claimant received no benefits for the period of time in question, the issues of overpayment and chargeability are moot. Because claimant is not eligible for regular unemployment insurance benefits, claimant is also not eligible for Federal Pandemic Unemployment Compensation. See PL 116-136 §2104(B).

DECISION:

The October 8, 2020 (reference 03) unemployment insurance decision is reversed. Claimant was not totally, partially or temporarily unemployed. Benefits are denied. The issues of overpayment and chargeability are moot. Claimant is not eligible for Federal Pandemic Unemployment Compensation.



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December 17, 2020
Decision Dated and Mailed

acw/scn