

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SARAH M HARTSHORN
Claimant

APPEAL NO. 21A-UI-14295-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CYHAWK HOSPITALITY INC
Employer

OC: 04/12/20
Claimant: Appellant (1)

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.7(2)A(2) – Partial Benefits
Iowa Code § 96.19(38) – Total and Partial Unemployment

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 15, 2021, reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on August 30, 2021. Claimant participated personally and had witness Nicholas Topp. Employer participated by Julie Keane. Claimant's Exhibits 1-3 were admitted into evidence

ISSUES:

Whether claimant is still employed at the same hours and wages?
Whether claimant is eligible to receive partial benefits?
Whether claimant is able and available for work?

FINDINGS OF FACT:

The claimant currently works for Cyhawk Hospitality, a base period employer, full time under the same terms and conditions as contemplated in the original contract of hire. During the two week time period from March 7-20, 2021 claimant missed work as she was positive for Covid. Claimant was able to work partial weeks on both of these weeks, but while she was positive for Covid she was not able and available for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not partially unemployed for the weeks from March 7-20, 2021.

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 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.

Because the claimant was ill and away from work for the period between March 7-20, 2021, claimant is not considered partially unemployed. Regular state benefits are denied for that period.

DECISION:

The June 15, 2021, reference 01, decision is affirmed. The claimant is not partially unemployed for the period between March 7-20, 2021, and benefits are denied for that period.



Blair A. Bennett
Administrative Law Judge

September 1, 2021
Decision Dated and Mailed

bab/mh

Note to Claimant: Even though claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 52 weeks of unemployment benefits. **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>.