

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

STEPHEN D KEAL
Claimant

TRANSCO RAILWAY PRODUCTS INC
Employer

APPEAL NO. 20A-UI-05001-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (1)

Iowa Code § 96.4-3 – Able and Available

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 27, 2020 reference 02, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on June 29, 2020. Claimant participated personally. Employer participated by Estelle Gudenkauf, Derrick Casey and Jacob Steil.

ISSUES:

Whether claimant is able and available for work?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant had issues with child care for his young child beginning in the middle of March with the Covid rise. Claimant explained to employer that he would have to work half time (one week on then the next week off) in order to take his child half the time per child custody arrangements.

Claimant has reported those weeks when he has been able and available to work and has also reported those weeks when he had not worked to care for his child. For the weeks of March 22-April 18, 2020 claimant had periods when he did not report to work because of his child care responsibilities.

Between the dates of the week ending March 22, 2020 and April 18, 2020 claimant has received state benefits of \$500.00.

Between the dates of the week ending March 22, 2020 and April 18, 2020 claimant has received FPUC benefits of \$600.00.

REASONING AND CONCLUSIONS OF LAW:

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. Code r. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

For the weeks when claimant missed work between March 22, 2020 and April 18, 2020, claimant has not established the ability to work. Benefits are withheld for those weeks when claimant did not work because he had to take care of his child.

Between the dates of the week ending March 22, 2020 and April 18, 2020 claimant has received state benefits of \$500.00. Said amount is an overpayment.

Between the dates of the week ending March 22, 2020 and April 18, 2020 claimant has received FPUC benefits of \$600.00. Claimant is not eligible for this benefit.

Note to Claimant: Even though claimant is not eligible for regular unemployment insurance benefits under state law, he 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 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. **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>.

DECISION:

The decision of the representative dated May 27, 2020, reference 02 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective March 22, 2020 through April 18, 2020 for those weeks when claimant had applied for unemployment benefits. During this time, claimant's absences occurred as a result of claimant not being able and available for work.

Between the dates of the week ending March 22, 2020 and April 18, 2020 claimant has received state benefits of \$500.00. Said amount is an overpayment.

Between the dates of the week ending March 22, 2020 and April 18, 2020 claimant has received FPUC benefits of \$600.00. Claimant is not eligible for this benefit.



Blair A. Bennett
Administrative Law Judge

July 10, 2020
Decision Dated and Mailed

bab/sam