

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRIS J GAMA
Claimant

CEDAR COUNTY
Employer

APPEAL 20A-UI-13253-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (1/R)

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

Chris Gama (claimant) appealed a representative's October 14, 2020, decision (reference 01) that denied benefits based on his continued employment with Cedar County (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 17, 2020. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The administrative law judge took official notice of the administrative file.

ISSUES:

The issue is whether the claimant is eligible for total or partial unemployment benefits, still employed at the same hours and wages, whether the claimant is able and available for work and/or whether the employer's account is subject to charge.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 10, 2019, as a full-time corrections officer. He was paid approximately \$19.35 per hour and worked approximately thirty-six hours per week. The claimant has worked continuously each week from April 5, 2020, through the present and earned \$697.00.

The claimant also owns a small business, Secret Place Tattoo Studio, that suffered losses due to the Covid-19 pandemic. He heard he could file for unemployment insurance benefits as a business owner.

The claimant filed for unemployment insurance benefits with an effective date of April 5, 2020. His weekly benefit amount was determined to be \$518.00. The claimant received benefits of \$518.00 per week from April 5, 2020, to the week ending May 23, 2020. This is a total of \$3,626.00 in state unemployment insurance benefits after the separation from employment. He

also received \$4,200.00 in Federal Pandemic Unemployment Compensation for the seven-week period ending May 23, 2020. When the claimant filed his weekly claim, he was confused and did not report his wages from the employer.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant was at all times employed and earning wages from the employees. Therefore, he cannot be considered totally or temporarily unemployed. The issue becomes whether he was partially unemployment insurance benefits. For a worker to be partially unemployed, he must be earning less than his WBA plus \$15.00. Each week the claimant earned \$697.00. This was greater than \$533.00, his WBA plus \$15.00. The claimant was not partially unemployed. He was not monetarily eligible for unemployment insurance benefits. Benefits are denied as of April 5, 2020.

Even though the 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. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

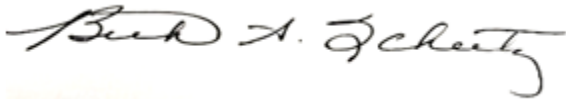
The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

DECISION:

The October 14, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective April 5, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time as the claimant is able to and available for work.

The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

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 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>.



Beth A. Scheetz
Administrative Law Judge
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December 31, 2020
Decision Dated and Mailed

bas/mh