

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CARLA S FLEIG

Claimant

WILLIAM BAUMANN

Employer

APPEAL 20A-UI-09152-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/19/20

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:

Carla Fleig (claimant) appealed a representative's July 24, 2020, decision (reference 01) that denied benefits based on her employment with William Baumann (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 17, 2020. The claimant participated personally. The employer participated by William Baumann. 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 in July 2014, as a part-time caretaker. Her hourly rate of pay was \$20.50 and she worked thirty-two hours per week through April 7, 2020. She earned \$656.00 per week. On April 8, 2020, she started working thirty-five hours per week and earning \$717.50 per week. On July 1, 2020, the employer started paying her \$21.00 per hour. The claimant was earning \$735.00 per week.

The claimant also had a full-time job that paid her \$10.00 per hour. Her full-time job reduced her hours and she was earning \$100.00 per week. Due to the reduction of hours, the claimant filed for unemployment insurance benefits with an effective date of April 19, 2020. Her weekly benefit amount (WBA) was determined to be \$413.00. Her WBA plus \$15.00 was \$428.00. She reopened her claim for benefits on May 3, 2020. The claimant did not report her gross wages from both employers to the department.

The claimant received benefits from April 11, 2020, to the week ending July 18, 2020, for a total of \$4,011.00 in state unemployment insurance benefits after the separation from employment. She also received \$7,200.00 in Federal Pandemic Unemployment Compensation for the twelve-week period ending July 18, 2020.

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. Therefore, she cannot be considered totally or temporarily unemployed. The question becomes whether the claimant was partially unemployed. The claimant every week earned in excess of her WBA plus \$15.00, or \$428.00. She was earning \$600.00 or more per week. She was not partially unemployed. The claimant was monetarily ineligible for unemployment insurance benefits. Benefits are denied.

Even though the 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 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.

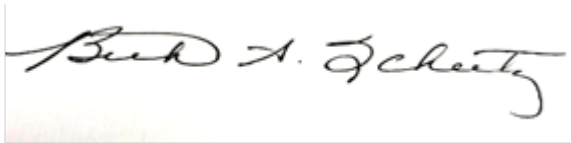
The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

DECISION:

The July 24, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective April 19, 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
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
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September 18, 2020
Decision Dated and Mailed

bas/scn