

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**CORVIN C JUSTICE**  
Claimant

**APPEAL NO. 21A-UI-01252-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE UNIVERSITY OF IOWA**  
Employer

**OC: 09/06/20**  
**Claimant: Appellant (4)**

Iowa Code Section 96.4(3) – Able & Available  
Iowa Code Section 96.19(38) – Temporary and Partial Unemployment

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the December 1, 2020, reference 01, decision that denied benefits for the period beginning September 6, 2020, based on the deputy's conclusion that the claimant was working enough hours to be considered employed, removed from the labor market, and not "available" within the meaning of the unemployment insurance law. After due notice was issued, a hearing was held on February 16, 2021. Claimant participated. Jessica Wade represented the employer. Exhibit A, the appeal letter, was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO and WAGE-A.

**ISSUES:**

Whether the claimant was able to work and available for work during the three-week period of September 6, 2020 through September 26, 2020.

Whether the claimant was partially and/or temporarily unemployed work during the three-week period of September 6, 2020 through September 26, 2020.

Whether the employer's account may be charged for benefits for the three-week period of September 6, 2020 through September 26, 2020.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed by the University of Iowa as a .9 FTE Flight Paramedic. The claimant usually works 36 hour per week. Due to current economic conditions, the employer has in place a mandatory furlough requirement under which the claimant was required to take the equivalent of one week off without pay during the fiscal year that started on July 1, 2020 and that will end on June 30, 2021. The furlough is to be scheduled consistent with the business needs of the employing department. The claimant's supervisor designated the week of September 13-19, 2020 as the week of the claimant's unpaid furlough. The claimant worked his usual schedule during the week that ended September 12, 2020. The claimant then was off work without pay during the week that ended September 19, 2020. The claimant remained able to work and

available to perform work for the employer during the week of the furlough. The claimant returned to his usual schedule during the week that ended September 26, 2020.

The claimant established an original claim for benefits that was effective September 6, 2020 and made weekly claims for the weeks that ended September 12, 19 and 26, 2020. For the weeks that ended September 12 and 26, 2020, the claimant earned and reported wages that well exceeded his \$512.00 weekly benefit amount. For the week that ended September 19, 2020, the claimant earned no wages and reported no wages.

## **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(2) 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.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

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.

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

The claimant was fully employed during the weeks that ended September 12 and September 26, 2020, cannot be deemed temporarily or partially unemployed during those weeks, cannot be deemed "available" within the meaning of the unemployment insurance law during those weeks, and is not eligible for benefits for those two weeks.

The claimant was temporarily laid off during the week that ended September 19, 2020 and is eligible for benefits for that week, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant for the week that ended September 19, 2020.

**DECISION:**

The December 1, 2020, reference 01, decision is modified in favor of the claimant/appellant as follows. The claimant was temporarily laid off during the week that ended September 19, 2020 and is eligible for benefits for that week, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant for the week that ended September 19, 2020. The claimant was fully employed during the weeks that ended September 12 and September 26, 2020, cannot be deemed temporarily or partially unemployed during those weeks, cannot be deemed "available" within the meaning of the unemployment insurance law during those weeks, and is not eligible for benefits for those two weeks.



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James E. Timberland  
Administrative Law Judge

February 26, 2021  
Decision Dated and Mailed

jet/lj