

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CINDY J PAULSEN
Claimant

ROCKWELL COLLINS INC
Employer

APPEAL NO. 20A-UI-06402-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

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

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

STATEMENT OF THE CASE:

Cindy Paulsen filed a timely appeal from the June 11, 2020, reference 01, decision that denied benefits effective April 12, 2020, based on the deputy's conclusion that she could not be deemed partially unemployed within the meaning of the law. After due notice was issued, a hearing was held on July 22, 2020. Ms. Paulsen participated. The employer did not respond to the hearing notice instructions to register a telephone number for the hearing and did not participate. Exhibit A 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 period of April 12, 2020 through June 6, 2020.

Whether the claimant was totally, partially and/or temporarily unemployed during the period of April 12, 2020 through June 6, 2020.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Cindy Paulsen is employed by Rockwell Collins, Inc. as a full-time pricing coordinator. Ms. Paulsen's regular work hours at Rockwell Collins are 6:00 a.m. to 4:30 p.m. or 5:00 p.m., Monday through Friday. Though the employer used to provide overtime pay, the employer discontinued that practice some months ago. Ms. Paulsen's hourly wage is \$30.00 or more per hour, which amounts to at least \$1,200.00 in weekly gross wages for 40 hours of work per week. Ms. Paulsen's work for Rockwell Collins is computer-based and she is able to perform her work duties for Rockwell Collins from home. Ms. Paulsen currently works full-time from home, due to the COVID-19 pandemic and due to respiratory issues.

Ms. Paulsen is also employed on a part-time basis with Hy-Vee, but has not worked for Hy-Vee for the last few months due to her respiratory issues and the COVID-19 pandemic.

Ms. Paulsen established an original claim for unemployment insurance benefits that was effective April 12, 2020. Iowa Workforce Development set her weekly benefit amount at \$481.00. Ms. Paulsen made weekly claims for the eight weeks between April 12, 2020 and June 6, 2020 and received benefits for those eight weeks. Ms. Paulsen continued to work full-time for Rockwell Collins during the eight weeks when her claim was active, but did not report the Rockwell Collins wages when she made her weekly claims. Ms. Paulsen discontinued her claim after the benefit week that ended June 6, 2020.

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) and (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.

(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.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

...

(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.

The evidence in the record establishes that Ms. Paulsen was not unemployed within the meaning of the law during the period of April 12, 2020 and June 6, 2020 and is not eligible for benefits for that period. Ms. Paulsen has at all relevant times continued in the full-time employment with Rockwell Collins and has continued to receive weekly wages from that employment that far exceed her weekly benefit amount. Regardless of what was happening with the part-time Hy-Vee employment, Ms. Paulsen has not been unemployed to any extent from the full-time employment at Rockwell Collins. Benefits are denied for the period beginning April 12, 2020 and continuing through the benefit week that ended June 6, 2020.

This matter will be remanded to the Benefits Bureau for entry of overpayment decisions regarding the regular benefits and that Federal Pandemic Unemployment Compensation that Ms. Paulsen received for the period of April 12, 2020 and June 6, 2020.

DECISION:

The June 11, 2020, reference 01, decision is affirmed. The claimant has not been partially unemployed and has in fact not been unemployed to any extent within the meaning of the law since she established the claim that was effective April 12, 2020. Benefits are denied for the period beginning April 12, 2020 and continuing through the benefit week that ended June 6, 2020.

This matter is remanded to the Benefits Bureau for entry of overpayment decisions regarding the regular benefits and that Federal Pandemic Unemployment Compensation the claimant received for the period of April 12, 2020 and June 6, 2020.



James E. Timberland
Administrative Law Judge

July 29, 2020
Decision Dated and Mailed

jet/sam