

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CLAYTON G COLEMAN
Claimant

CITY OF DUBUQUE
Employer

APPEAL 20A-UI-03446-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Respondent (2)

Iowa Code § 96.19(38) – Total, partial unemployment
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages
Iowa Code § 96.7(2)a(2) – Charges – Same base period employment

STATEMENT OF THE CASE:

On April 24, 2020, City of Dubuque (employer/appellant) filed a timely appeal from the April 16, 2020 (reference 01) unemployment insurance decision that determined Clayton Coleman (claimant/respondent) was eligible to receive benefits.

A telephone hearing was held on May 20, 2020 at 4 p.m. The parties were properly notified of the hearing. Claimant did not register a number for the hearing and did not participate. Employer participated by HR Assistant Regina Noel. Supervisor Russ Steckline participated as a witness for employer.

Official notice was taken of claimant's payment and wage history on the department's information database.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work? Is the claimant still employed at the same hours and wages?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer on November 4, 2014. Claimant is still employed by employer as a part-time transit dispatcher scheduler. Claimant's immediate supervisor is Steckline.

Claimant was working approximately 25 hours per week for employer as well on nights and weekends between roughly September 2019 and March 2020. However, the availability of those

hours fell dramatically in mid-March due to the pandemic and an accompanying reduction in routes. Some hours are still available, but those conflict with claimant's full-time employment. Claimant was never guaranteed a certain number of hours. During the relevant time frame, claimant has had a full-time job with another employer. He works Monday through Friday, 7:30 a.m. to 4 p.m. in that position.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the April 16, 2020 (reference 01) unemployment insurance decision that determined claimant was eligible to receive unemployment insurance benefits is REVERSED.

I. Is the claimant totally, partially, or temporarily unemployed?

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.

Claimant is not totally or temporarily unemployed, as he is still employed at his regular, full-time job. Claimant is not partially unemployed either, as he is not working less than a regular full-time work week or separated from his regular job. In other words, claimant is not unemployed.

II. Is the claimant able to and available for work?

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. 871-24.23(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

Claimant does not meet the availability for work requirements to be eligible for benefits. This is because claimant has a full-time job with another employer. Claimant is working to such an extent that he has removed himself from the labor market.

DECISION:

The April 16, 2020 (reference 01) unemployment insurance decision that determined claimant was eligible to receive unemployment insurance benefits is REVERSED. Claimant is not totally, partially, or temporarily unemployed, and is not available for work effective from the original claim date, March 15, 2020. Claimant is ineligible for benefits effective that date.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

May 21, 2020
Decision Dated and Mailed

abd/scn

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>.