

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**HODIA NAGAAJU**  
Claimant

**APPEAL 20A-UI-07033-DG-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RACCOON VALLEY MANAGEMENT LLC**  
Employer

**OC: 04/05/20**  
**Claimant: Respondent (1R)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.7(2)a – Same Base Period Employment

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated June 24, 2020, (reference 02) that held claimant able to and available for work. After due notice, a hearing was scheduled for and held on August 3, 2020. Employer participated by Matt Russell, Area Supervisor. Claimant failed to respond to the hearing notice and did not participate.

**ISSUES:**

Does the claimant meet the definition of being considered partially unemployed?  
Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant currently works for employer as a full-time crew member. Beginning on April 5, 2020, it did not have work available for the claimant as contemplated in the original contract of hire.

Claimant began working for employer on October 7, 2019. Claimant normally works approximately 32 hours a week. Beginning on April 5, 2020 employer did not have as many hours available for claimant because of the covid-19 pandemic. Claimant was offered 18 hours or less beginning on that date. Work has picked up, and claimant is currently offered her normal work hours on some weeks. Employer argues that its account should not be charged.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed beginning on April 5, 2020.

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 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.

Iowa Code section 96.7(2)a(2)(a), (b), and (c) provides:

2. *Contribution rates based on benefit experience.*

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual 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. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

(b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the

unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(c) The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

Iowa Admin. Code r. 871-23.43(4)a provides, in part:

**(4) Supplemental employment.**

a. An individual, who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer, continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges....

Because the claimant is not currently employed under the same hours and wages as contemplated at hire, she is considered partially unemployed. Benefits may be allowed based upon reporting of weekly earnings. For whatever period the employer is not offering the same wages and hours as contemplated in the contract of hire, it may be liable for benefit charges to its account.

Partial benefits based upon payment of gross wages are calculated using the following formula:

Gross wages – 25% of WBA = deduction from benefits rounded down.

For example:

20 hours x \$8.00 per hour = \$160 gross wages

\$280 WBA x .25 = \$70 deduction from benefits

\$160 - \$70 = \$90 deduction from benefits

\$280 - \$90 = \$190 partial benefits for a week with \$160 in gross wages

The employer contends that the reduction in hours was due to the COVID 19 pandemic. The chargeability issue and whether the employer's account may be charged for any future benefits paid to the claimant due to her reduction in hours worked because of the COVID 19 pandemic is remanded to the Tax Bureau of Iowa Workforce Development for an initial investigation and determination.

**DECISION:**

The June 24, 2020, (reference 02) decision is affirmed. The claimant is partially unemployed and benefits are allowed, provided she is otherwise eligible. Claimant is required to report gross wages earned for each week of benefits claimed. The employer's account (596685-000) may be liable for charges.

**REMAND:**

The chargeability issue delineated in the findings of fact of whether the employer's account may be charged for future benefits paid due to the COVID 19 pandemic is remanded to the Tax Bureau of Iowa Workforce Development for a determination of allocation of charges.

A handwritten signature in blue ink that reads "Duane L. Golden". The signature is written in a cursive style and is positioned above a horizontal line.

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Duane L. Golden  
Administrative Law Judge

August 10, 2020  
Decision Dated and Mailed

dlg/scn