

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ERIC W PADGETT

Claimant

APPEAL 21A-UI-00507-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**COMMONWEALTH ELECTRIC CO OF THE
MIDWEST**

Employer

OC: 03/15/20

Claimant: Appellant (2)

Iowa Code § 96.1A(37) – 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:

Eric Padgett (claimant) appealed a representative's November 19, 2020, decision (reference 01) that denied benefits for the week ending August 9, 2020, based on his continued employment with Commonwealth Electric of Midwest (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 8, 2021. The claimant participated personally. The employer participated by Kelsey Drexel. Administrative Law Judge Elizabeth Johnson observed the hearing. 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 as of August 9, 2020.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant has worked for the employer since March 10, 2014. At present he is as a full-time foreman electrician. From March 22, 2020, through May 16, 2020, the owners shut down the worksite. They could not social distance during the pandemic. There was no work for the claimant.

For the benefit week ending August 15, 2020, the owners shut down the worksite again when a water pipe broke. There was no work for the claimant for the week ending August 15, 2020.

The claimant filed for unemployment insurance benefits with an effective date of March 15, 2020. His weekly benefit amount was determined to be \$518.00. The claimant received benefits of \$518.00 from March 22, 2020, through May 16, 2020, and the week ending

August 15, 2020. This is a total of \$4,662.00 in state unemployment insurance benefits after March 15, 2020. He also received Federal Pandemic Unemployment Compensation.

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.

Iowa Code section 96.4(3) provides:

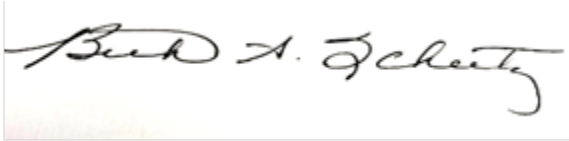
An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

When a worker is removed from work by the employer for a period not to exceed four consecutive weeks, he is temporarily unemployed. The employer removed the claimant from work for the one week ending August 15, 2020, due to a water pipe break. The separation was not due to the claimant's actions. The claimant was temporarily unemployed. Benefits are allowed for the week ending August 15, 2020, provided the claimant is otherwise eligible.

DECISION:

The November 19, 2020, (reference 01) unemployment insurance decision is reversed. The claimant was temporarily unemployed. Benefits are allowed for the week ending August 15, 2020, provided the claimant is otherwise eligible.

A handwritten signature in black ink, reading "Beth A. Scheetz", is positioned above a horizontal line.

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

February 19, 2021
Decision Dated and Mailed

bas/kmj