

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRITTANY L HAYES
Claimant

THE UNIVERSITY OF IOWA
Employer

APPEAL 21A-UI-01294-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/30/20
Claimant: Appellant (4R)

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On December 11, 2020, the claimant filed an appeal from the December 4, 2020, (reference 01) unemployment insurance decision that denied benefits based upon a finding that claimant was still employed at the same hours and wages in her original contract of hire. The parties were properly notified about the hearing. A telephone hearing was held on February 17, 2021. Claimant Brittany L. Hayes participated. Employer The University of Iowa participated through human resources business analyst Jessica Wade. 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.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 18, 2019 as a full-time coding specialist and worked until October 21, 2020, until she resigned.

Claimant was furloughed the week beginning August 31, 2020, due to COVID-19. She returned to work the following week. At no time did claimant request that she be given time off. The furlough was initiated by employer exclusively.

Throughout the time period while claimant was furloughed, she was able and available to work and claimant did return to work as soon as employer called claimant back to work.

There has been no initial investigation or decision regarding the issue of separation from employment.

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".

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.

Because the claimant was furloughed at the choice of employer, claimant is considered temporarily unemployed for the week ending September 5, 2020. She did not work and was paid no wages during this time. Benefits are allowed, provided claimant is otherwise eligible.

The issue of whether the employer will be charged for regular, state-funded unemployment insurance benefits paid due to Covid-19 will be remanded to the Tax Bureau of Iowa Workforce Development for a determination in accordance with the agency's announcement that it would not charge employers for benefits paid due to Covid-19.

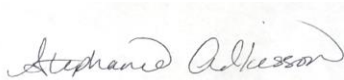
DECISION:

The December 4, 2020, reference 01, unemployment insurance decision is modified in favor of the appellant. Claimant was temporarily unemployed. Benefits are allowed for the one-week period ending September 5, 2020, provided claimant is otherwise eligible.

REMAND:

The issue of separation from employment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

The issue of whether employer should be charged for the unemployment insurance benefits paid to claimant because of Covid-19 is remanded to the Tax Bureau of Iowa Workforce Development for a determination.



Stephanie Adkisson
Administrative Law Judge
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March 1, 2021
Decision Dated and Mailed

sa/mh