

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LANEISHA L LASHAY
Claimant

PARCO LTD
Employer

APPEAL 20A-UI-07458-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/19/20
Claimant: Respondent (4)

Iowa Code § 96.19(38)a & b – 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
Iowa Code § 96.3-7 – Overpayment
PL 116-136 Section 2104 (B) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Parco (employer) appealed a representative's June 30, 2020, decision (reference 02) that concluded Laneisha Lashay (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 10, 2020. The claimant did not provide a telephone number and, therefore, did not participate in the hearing. The employer participated by Juliet Diaz, Human Resources Manager. 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 September 10, 2019, as a part-time crewmember at Wendy's. The claimant, co-workers, and Tyson workers attended a baby shower. After the shower, there was a Covid-19 outbreak in the community. The Black Hawk County Health Department notified the employer that the claimant was to remain in quarantine from April 19, 2020, through May 7, 2020.

The claimant did not return to work until May 9, 2020, even though work was available on May 7, 2020. After May 7, 2020, the claimant has not been available for most of her shifts. The employer has work available for the claimant.

The claimant filed for unemployment insurance benefits with an effective date of April 19, 2020. Her weekly benefit amount was determined to be \$125.00. The claimant did not receive any unemployment insurance benefits or Federal Pandemic Unemployment Compensation after April 19, 2020.

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 Admin. Code r. 871-24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

The employer had work available for claimant; however, the claimant was unable to work due to mandatory quarantine. The employer agreed to allow the claimant time off for that reason. The claimant is considered to be on a leave of absence and not available for work. Therefore, the claimant is not eligible for regular, state-funded unemployment insurance benefits for the three-week period ending May 9, 2020.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment

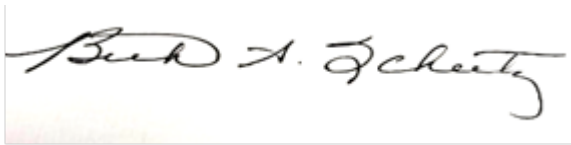
benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

The claimant did not receive any regular unemployment insurance benefits or Federal Pandemic Unemployment Compensation. She is not overpaid these benefits.

DECISION:

The June 30, 2020, (reference 02) unemployment insurance decision is modified in favor of the appellant. The claimant is not able to work and available for work for the three-week period ending May 9, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied during that period.

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>.



Beth A. Scheetz
Administrative Law Judge
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August 17, 2020
Decision Dated and Mailed

bas/scn