

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ALEXANDRIA C ABRESCH**  
Claimant

**APPEAL 20A-UI-08538-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA CITY COFFEE COMPANY**  
Employer

**OC: 03/22/20  
Claimant: Respondent (4R)**

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Iowa Code § 96.4(3) – Able to and Available for Work  
Iowa Code § 96.19(38)B – Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment  
Iowa Code § 96.3(7) – Overpayment of Benefits  
PL 116-136 Section 2104(B) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

The employer/appellant filed an appeal from the July 15, 2020 (reference 02) unemployment insurance decision that found claimant was eligible for unemployment benefits due to a layoff. The parties were properly notified of the hearing. A telephone hearing was held on September 1, 2020. The claimant, Alexandria C. Abresch, participated personally. The employer, Iowa City Coffee Company, participated through witness Tara Cronbaugh. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**ISSUES:**

Is the claimant eligible for total or partial unemployment benefits?  
Is the claimant able to and available for work?  
Is the employer's account subject to charges?  
Is the claimant overpaid benefits?  
Is the claimant overpaid Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant started working for this employer on November 5, 2019. She is still employed to date. She works full-time as an assistant manager. Claimant filed her original claim for benefits effective March 22, 2020. Her weekly-benefit amount is \$225.00.

On March 17, 2020, the employer notified her that her regular full-time hours would be reduced to approximately 25 hours per week due to a reduction in work from the COVID 19 pandemic. Claimant worked reduced hours from March 17, 2020 through April 26, 2020.

Claimant's administrative records establish that she has not filed any weekly-continued claims for benefits for any weeks since filing her original claim for benefits. Claimant has not received

any regular unemployment insurance benefits or Federal Pandemic Unemployment Compensation benefits because she failed to file weekly continued claims for benefits.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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", subparagraph (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".

(emphasis added).

Iowa Code § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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 § 96.7(2)a(2)a provides:

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.

(emphasis added).

In this case, the claimant has not been totally unemployed for any weeks; however, the claimant has worked a reduced work schedule during the weeks of March 17, 2020 through April 25, 2020. It is unknown whether the claimant would have earned gross wages each week of less than her weekly-benefit amount plus \$15.00 as she failed to file any weekly-continued claims for benefits. Benefits are allowed, provided the claimant is otherwise eligible from benefit week beginning March 22, 2020 through benefit week ending April 25, 2020.

As of April 27, 2020, claimant has worked her regular scheduled full-time hours. As such, benefits are denied effective benefit week beginning April 26, 2020, as the claimant is no longer partially unemployed. No overpayment of regular unemployment insurance benefits funded by the State of Iowa or Federal Pandemic Unemployment Compensation benefits exists as no benefits have been paid to date.

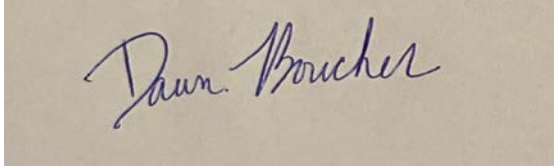
The employer contends that the reduction in hours was due to the COVID 19 pandemic. The chargeability issue and whether the employer's account may be charged for any benefits due to her reduction in hours worked because of the COVID 19 pandemic is remanded to the Tax Bureau of Iowa Workforce Development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

**DECISION:**

The July 15, 2020 (reference 02) decision is modified in favor of the appellant. Claimant was partially unemployed from March 22, 2020 through April 25, 2020. Benefits are allowed from March 22, 2020 through April 25, 2020, provided the claimant is otherwise eligible. The claimant must report all gross wages earned when filing any weekly-continued claims for benefits. Claimant has been working full-time hours since April 26, 2020 and was no longer partially unemployed effective April 26, 2020. Benefits are denied effective April 26, 2020.

**REMAND:**

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

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Dawn Boucher  
Administrative Law Judge

September 3, 2020  
Decision Dated and Mailed

db/scn

**Note to Claimant**

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. 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.
- If you do not qualify for regular unemployment insurance benefits funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance ("PUA") section of the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act") that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**  
For additional information on how to apply for PUA go to:  
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:  
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to "Submit Proof Here." You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:  
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.