

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DONNA S SMITH**  
Claimant

**DOLGENCORP LLC**  
Employer

**APPEAL 20A-UI-05701-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20**  
**Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able to and Available for Work  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

**STATEMENT OF THE CASE:**

The claimant/appellant, Donna S. Smith, filed an appeal from the June 4, 2020 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 8, 2020. The claimant participated personally. The employer, Dolgencorp LLC., did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records. Claimant Exhibit A was admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Is the claimant able to work and available for work effective April 5, 2020?

Is the claimant overpaid benefits?

Is the claimant eligible for Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began work on July 19, 2019 and works for this employer on a part-time basis as a store associate.

In March 2020, the claimant asked the employer if she could take a leave of absence, because she was concerned as a high risk person, that she could be exposed with COVID-19. The employer denied her request and the claimant remained working without a break in employment until the employer sent her home on March 28, 2020. The employer did not explain to the claimant why she was sent home and the claimant called repeatedly to ask when she could return to work. She was told, “not yet.”

The claimant did not perform work from March 28-May 22, 2020, because the employer did not allow her to work, not because she restricted herself from work, in light of being concerned with COVID-19 exposure at the workplace. She resumed working on May 23, 2020.

Despite being denied benefits after the initial fact-finding, the decision was made by Iowa Workforce Development to release funds of claimants while their claims were pending due to the backlog caused by the recent COVID 19 outbreak. The claimant was one of the individuals whose funds were released pending the initial decision. The administrative record shows, the claimant filed for and received a total of \$525.00 in regular unemployment insurance benefits for the weeks between April 5, 2020 and May 23, 2020.

The claimant also received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). She received \$4,200.00 in federal benefits for the seven-week period ending May 23, 2020.

### **REASONING AND CONCLUSIONS OF LAW:**

**For the reasons that follow, the administrative law judge concludes the claimant is able to and available for work effective 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 96.1A, 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".

For an individual to be eligible to receive benefits, she must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

While the claimant initially did request a leave of absence because she had concerns with COVID-19, the request was denied, and the claimant continued working until the employer sent the claimant home on March 28, 2020 and would not let her return to work until May 23, 2020. The claimant was willing and able to perform work, not under any medical care advising her not to work, and had no other restrictions. Accordingly, the administrative law judge concludes the claimant was able to and available for work. Benefits are allowed, provided she is otherwise eligible.

Because the claimant is eligible for benefits, she is not overpaid regular unemployment insurance benefits.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Here, the claimant is qualified to receive regular unemployment insurance (UI) benefits. Accordingly, this also qualifies the claimant to receive Federal Pandemic Unemployment Compensation (FPUC).

**DECISION:**

The unemployment insurance decision dated June 4, 2020, (reference 02) is reversed. The claimant is able and available for work effective April 5, 2020. Benefits are allowed, provided she is otherwise eligible.



---

Jennifer L. Beckman  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

July 16, 2020

Decision Dated and Mailed  
jlb/sam