

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**YONG S KLUESNER**  
Claimant

**KASTIM CORPORATION**  
Employer

**APPEAL 20A-UI-05201-SC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

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

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Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(26) – Available – Part-time Same Wages and Hours

**STATEMENT OF THE CASE:**

On June 2, 2020, Yong S. Kluesner (claimant) filed an appeal from the May 28, 2020, reference 01, unemployment insurance decision that denied benefits effective April 5, 2020, based upon the determination she was not available for work during the times when work in her occupation was often done. After due notice was issued, a telephone conference hearing was held on July 9, 2020. The claimant participated personally. Donald Kluesner was sworn in as the claimant's witness but did not testify. The employer did not respond to the hearing notice and did not participate. Andy Chong from CTS Language Link provided Korean interpretation for the hearing. No exhibits were offered into the record. The administrative law judge took official notice of the claimant's claim and wage histories.

**ISSUES:**

Is the claimant totally, partially, or temporarily unemployed?  
Is the claimant able to work, available for work, and actively and earnestly seeking work effective April 5, 2020?  
Is the claimant still employed at the same hours and wages?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a team member in July 2017. She still works for the employer; however, the employer has reduced her hours to approximately ten a week due to the COVID-19 pandemic. The claimant is available to work her normal hours.

The claimant filed her claim for benefits effective April 5, 2020, and her weekly benefit amount (WBA) is \$229.00. The claimant has reported the following wages earned each week:

Week ending	Gross Wages Reported
04/11/20	\$263
04/18/20	\$131
04/25/20	\$137
05/02/20	\$131
05/09/20	\$131
05/16/20	\$230
05/23/20	\$231

The claimant's base period includes the 2019 calendar year. This employer is the only employer in her base period. The wages in her base period were all for full-time work.

The issue of whether the employer will be charged for benefits paid due to the COVID-19 pandemic will be remanded to the Tax Bureau of Iowa Workforce Development for an initial determination on the allocation of charges.

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

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed effective April 12 for the six weeks ending May 23. Partial benefits are allowed.

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".

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.

The claimant is still employed by her regular full-time employer, but is working a reduced number of hours each week even though she is available for her full-time hours. She is eligible for benefits in any week in which she earns less than \$244.00, which is her WBA plus \$15.00. The claimant earned over \$244.00 during the week ending April 11 and is not eligible for benefits that week. However, she is eligible for partial benefits and Federal Pandemic Unemployment Compensation (FPUC) for the other six weeks she claimed benefits.

**DECISION:**

The May 28, 2020, reference 01, unemployment insurance decision is reversed. The claimant is partially unemployed and benefits are allowed, provided she is otherwise eligible. She is required to report gross wages earned for each week of benefits claimed.

**REMAND:**

The chargeability issue delineated in the findings of fact is remanded to the Tax Bureau of Iowa Workforce Development for a determination of the allocation of charges.



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Stephanie R. Callahan  
Administrative Law Judge

July 20, 2020  
Decision Dated and Mailed