

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**KELLEY J SIDLES**

Claimant

**APPEAL 21A-UI-02563-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA CATHOLIC CONFERENCE**

Employer

**OC: 03/15/20**

**Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions  
Iowa Admin. Code r. 871-24.23(26) – Available – Part-time Same Wages and Hours  
Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment  
Iowa Code § 96.7(2)a(2) – Employer Chargeability

**STATEMENT OF THE CASE:**

On January 4, 2021, Kelley J. Sidles (claimant) filed an appeal from the December 29, 2020, reference 03, unemployment insurance decision that denied benefits based upon the determination she was still employed at the same hours and wages. After due notice was issued, a telephone hearing was held on March 8, 2021. The claimant participated. The employer participated through Susie Baxter, Business Manager, and it was represented by Paul Jahnke. Amanda Woodall, Principal, was sworn in as an employer witness, but she did not testify. No exhibits were offered into the record. The administrative law judge took official notice of the administrative record, specifically the claimant's claim history.

**ISSUES:**

Is the claimant totally, partially, or temporarily unemployed?  
Was the claimant able to and available for work effective March 15, 2020?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began working for the employer at the beginning of the 2019-2020 school year as a part-time Teachers' Assistant. She earns \$11.00 an hour, and she was guaranteed an average of 28 hours per week in her contract. On or about March 13, 2020, the employer temporarily closed due to the pandemic.

The claimant filed her claim for benefits effective March 15 and the weekly benefit amount is \$266.00. The employer paid the claimant \$220.00 in gross wages each week through the week ending April 11. The claimant did not work or receive wages from April 12 through May 30.

On or about May 31, the claimant returned to work in the employer's summer program. When she accepted the offer of work with the summer program, she was told she would work at

least 28 hours a week; however, due to the pandemic, she only averaged ten hours a week. The claimant filed for benefits and reported less than \$281.00 in gross wages earned each week between May 31 and August 15, with the exception of the week ending July 18, when she did not work. During the week ending July 18, the claimant was exposed to COVID-19 and was not allowed to work until her test results were available. The employer did not have work for the claimant during the week ending August 22 because it had shut down for a thorough cleaning of its facilities.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was partially or temporarily unemployed and considered able to work and available for work from March 15 through August 22, 2020. Benefits are allowed, provided she meets all other eligibility requirements.

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 96.19, subsection 38, paragraph "b", unnumbered paragraph (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 section 96.19(38) provides:

Definitions.

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.

Under Iowa Employment Security Law, an individual must be unemployed to be eligible for benefits. Iowa Code § 96.19(38). Total and temporary unemployment occur when an individual has received no wages and performed no services during any given week. *Id.* An individual who is totally unemployed has been permanently separated from an employer, whereas, an individual who is temporarily unemployed has not been permanently separated from employment. To be partially unemployed, an individual must be working less than their regular full-time work week and earn less than their weekly benefit amount plus fifteen dollars. *Id.*

The claimant was temporarily unemployed from April 12 through May 30 and the weeks ending July 18 and August 22. The claimant still works for the employer and had weeks in which she did not work and earn wages because the employer did not have work due to a national emergency. During those weeks, the claimant was temporarily unemployed and she was considered able to and available for work.

The claimant was partially unemployed from March 15 through April 11, May 31 through July 11, and July 19 through August 15. The claimant's regular full-time work week was 28 hours. During the weeks in which she reported wages earned, she worked less than her regular full-time week and earned less than \$281, or her weekly benefit amount plus fifteen dollars, in gross wages. Accordingly, benefits are allowed, if the claimant meets all other eligibility requirements.

**DECISION:**

The December 29, 2020, reference 03, unemployment insurance decision is reversed. The claimant was temporarily or partially unemployed and considered able to work and available for work effective March 15, 2020. Benefits are allowed, provided she meets all other eligibility requirements.

Note to employer: The claimant's claim is correctly coded as a COVID-19-related claim and your account is not being charged for the benefits she has received to date.



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Stephanie R. Callahan  
Administrative Law Judge

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March 12, 2021  
Decision Dated and Mailed

src/kmj