

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LIBBY C DEBES

Claimant

APPEAL NO. 20A-UI-05951-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FOCUS SERVICES LLC

Employer

OC: 03/29/20

Claimant: Appellant (1R)

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours
Iowa Code § 96.4-3 – Able and Available
Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence
Iowa Code § 96.7(2)A(2) – Partial Benefits
Iowa Code § 96.19(38) – Total and Partial Unemployment
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 4, 2020, reference 02, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on July 24, 2020. Claimant participated personally. Employer participated by hearing representative Jane Robinson and Angie Greve.

ISSUES:

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

The claimant used to work for Focus Services as a full time customer services representative. Claimant filed for unemployment benefits in this matter on March 29, 2020. Claimant went on a leave of absence from employer on March 30, 2020 as claimant was attending to her child that was out of school. Said leave was to last for two weeks. Claimant was to return to work on

April 13, 2020 but as a result of the Covid and claimant's inability to obtain child care, she continued her absence after the ending of the leave.

When claimant continued her absence, she was in contact with employer every day alerting that she still did not have anyone to care for her child, so she could not make it into work. Whereas claimant stated that she contacted employer every day since the date she was supposed to return to work, employer stated that claimant was terminated because she had two days when she did not call employer to tell of her ongoing absence.

Claimant has received state unemployment benefits in this matter of \$2,900.95.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$9,000.00.

Claimant has received Pandemic Emergency Unemployment Compensation in this matter of \$1,415.00

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not partially unemployed for the period of time between March 29, 2020 and April 13, 2020. Claimant was on a leave of absence for that period of time.

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".

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.

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the

overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Claimant was on a two week leave of absence from March 30-April 13. Benefits are denied for that period.

Claimant has received state unemployment benefits in this matter of \$566.00 for the two week period when claimant was on a leave of absence. Said amount is an overpayment.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$1,200.00 for the two week period when claimant was on a leave of absence. Claimant is not eligible to receive this payment.

As claimant is no longer employed by employer, the issue of the job separation in this matter is remanded to the fact finder.

Note to Claimant: Even though 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. **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>.

DECISION:

The June 4, 2020, reference 02, decision is affirmed. The claimant was on a leave of absence for the period between March 29-April 13, 2020 and unemployment benefits are denied for that period.

Claimant has received state unemployment benefits in this matter of \$566.00 for the two week period when claimant was on a leave of absence. Said amount is an overpayment.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$1,200.00 for the two week period when claimant was on a leave of absence. Claimant is not eligible to receive this payment.

As claimant is no longer employed by employer, the issue of the job separation in this matter is remanded to the fact finder.



Blair A. Bennett
Administrative Law Judge

August 4, 2020
Decision Dated and Mailed

bab/mh