

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**SARAH E BAXTER**

Claimant

**APPEAL NO. 20A-UI-15553-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE UNIVERSITY OF IOWA**

Employer

**OC: 05/03/20**

**Claimant: Appellant (4)**

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours

Iowa Code § 96.4-3 – Able and Available

Iowa Code § 96.7(2)A(2) – Partial Benefits

Iowa Code § 96.1(A)(37) – Total and Partial Unemployment

Iowa Code § 96.4-5 – Reasonable Assurance

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated November 2, 2020, reference 02, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on January 25, 2021. Claimant participated personally. Employer participated by Jessica Wade. Claimant's Exhibits 1-3 were admitted into evidence. Both parties agreed to waive time and notice and discuss the issue of reasonable assurance.

**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 employer gave claimant reasonable assurance of continued employment for the upcoming academic year.

**FINDINGS OF FACT:**

The claimant currently works for University of Iowa, a base period employer, part time at two separate jobs. At one job, claimant works a 24 hour work week as a child life specialist. At the other job for University of Iowa, claimant works as a part time adjunct professor. At all times relevant to these proceedings, claimant has maintained her 24 hour per week job. Claimant was informed by employer that she would not have her adjunct professorship for the Fall semester, at a minimum. This took away 10 hours of work from claimant's weekly pay. Claimant remained able and available to work all of her hours, and employer chose not to have claimant work 10 hours per week that she had been working for years. Claimant stated that she

hadn't consistently worked the 10 hours per week during the summer every year, but had been working those hours during the fall and spring semesters.

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

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed for the period from September 1, 2020 forward. For the period prior to September 1, 2020, claimant had not established that she normally worked the summer hours and is therefore not entitled to benefits prior to September 1, 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 96.19, 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 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.

Because the claimant has established the 10 hours a week of wages that were removed on or around September 1, 2020, claimant is entitled to partial unemployment benefits for the hours reduction. Claimant has not established that she regularly works the summer hours and therefore is not entitled to receive unemployment benefits for hours she does not regularly work.

**DECISION:**

The November 2, 2020, reference 02, decision is modified in favor of the claimant. The claimant is partially unemployed for the period after September 1, 2020 and benefits are allowed for that period, provided claimant is otherwise eligible. Claimant is not eligible to receive unemployment benefits prior to September 1, 2020.



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Blair A. Bennett  
Administrative Law Judge

February 10, 2021  
Decision Dated and Mailed

bab/kmj