

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TAYLOR OLSON
Claimant

CHARTER BANK
Employer

APPEAL NO. 20A-UI-09216-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/19/20
Claimant: Appellant (1)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Taylor Olson filed a timely appeal from the July 27, 2020, reference 01, decision that denied benefits effective April 19, 2020, based on the deputy's conclusion that Ms. Olson was still employed with Charter Bank under the same hours and wages and therefore was not partially unemployed within the meaning of the law. After due notice was issued, a hearing was held on September 18, 2020. Ms. Olson participated. Sharm Sisler represented the employer. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUES:

Whether the claimant was able to work and available for work for the period April 19, 2020 through May 16, 2020.

Whether the claimant was partially and/or temporarily unemployed for the period of April 19, 2020 through May 16, 2020..

Whether the employer's account may be charged for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Taylor Olson was employed by Charter Bank as a Universal Banker from 2017 until June 19, 2020. She began the employment as a part-time employee and became full-time in March 2018. She continued as a full-time employee until October 2019, when she elected to return to full-time status as she pursued college studies. After Ms. Olson returned to part-time status, she generally worked about 20 hours per week. Effective January 1, 2020, Ms. Olson's hourly wage was \$14.75. The employer has not decreased the hours or wages it had available for Ms. Olson.

Ms. Olson established an original claim for unemployment insurance benefits that was effective April 19, 2020. Ms. Olson established the claim in response to being temporarily laid off from a second, part-time employment at Founders on Main, Inc., a pub. The pub was compelled to close its doors to the public in connection with the Governor's COVID-19 based State Public Health Emergency Declaration. Iowa Workforce Development set Ms. Olson's weekly benefit

amount at \$367.00. Ms. Olson's base period for purposes of the claim that went to effect on April 19, 2020 consisted of the four quarters of 2019. During three of those four quarters, Ms. Olson was a full-time employee of Charter Bank and her wage credits derive primarily from that history of full-time employment.

Ms. Olson made weekly claims for the weeks that ended April 25, May 2, May 9, and May 16, 2020. When Ms. Olson made her claims or those weeks, she did not report her wages from Charter Bank. For the week that ended April 25, Ms. Olson worked 21.32 hours, for which she earned \$314.47. For the week that ended May 2, Ms. Olson worked 21.49 hours, for which she earned \$316.98. For the week that ended May 9, 2020, Ms. Olson worked 21.96 hours, for which she earned \$323.91. For the week that ended May 16, 2020, Ms. Olson worked 21.54 hours, for which she earned \$317.71. During the week that ended May 16, 2020, Ms. Olson returned to her part-time employment at the pub and earned \$221.00 in wages from the work at the pub. Ms. Olson's total wages for the week that ended May 16, 2020 were \$538.71, which exceeded her \$367.00 weekly benefit amount by more than \$15.00. During the four weeks between April 19, 2020 and May 16, 2020, Ms. Olson worked all of the hours that Charter Bank had for her under part-time status.

REASONING AND CONCLUSIONS OF LAW:

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. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market.

Claimants who are part-time workers cannot be deemed available for work within the meaning of the law if they are not available to the same degree and to the same extent as when the wage credits were accrued. Iowa Admin. Code r. 871 24.22(f).

An individual shall be deemed *partially unemployed* in any week in which, 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. Iowa Code Section 96.19(38)(b). Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed. Iowa Admin. Code r. 871-24.23

Ms. Olson did not meet the availability requirements during the period of April 19, 2020 through May 16, 2020 and is not eligible for benefits for that period. During that period, Ms. Olson was not available for work to the same degree and extent as when she accrued her base period wage credits. Those base period wage credits were based on a history of full-time employment, which meant that Ms. Olson had to be available for full-time employment in order to meet the availability requirement. At no time was Ms. Olson partially unemployed from Charter Bank. During the period of April 19, 2020 through May 16, 2020, Ms. Olson continued to work part-time hours at the bank under the reduced, part-time work schedule she initiated in October 2019.

DECISION:

The July 27, 2020, reference 01, decision is affirmed. The claimant was not available for work within the meaning of the law and was not partially unemployed within the meaning of the law during the period of April 19, 2020 through May 16, 2020. The claimant is not eligible for benefits for that period. The employer's account will not be charged or benefits paid to the claimant for the period of April 19, 2020 through May 16, 2020.



James E. Timberland
Administrative Law Judge

September 24, 2020
Decision Dated and Mailed

jet/mh

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you will be required to repay the benefits you have received.**