

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JULIE A HOUSELOG**

Claimant

**APPEAL 19A-UI-09327-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THERE IS NO PLACE LIKE HOME INC**

Employer

**OC: 11/10/19**

**Claimant: Respondent (1)**

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Iowa Code § 96.4(3) – Able and Available

Iowa Admin. Code r. 871-24.23(26) – Able & Available – Part time, same hours and wages

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment

Iowa Code § 96.7(2)a – Same Base Period Employment

**STATEMENT OF THE CASE:**

The employer/appellant filed an appeal from the November 21, 2019 (reference 01) unemployment insurance decision that found claimant was eligible for unemployment benefits. The decision further found that the claimant is not performing services in the same pattern of employment as in the base period so that the employer's account will not be relieved of charges. The parties were properly notified of the hearing. A telephone hearing was held on December 20, 2019. The claimant, Julie A. Houselog, participated personally. Witness Whitney Houselog participated on behalf of the claimant. The employer, There Is No Place Like Home, Inc., participated through Dianne Stecklein.

**ISSUES:**

Is the claimant able to work and available for work?

Is claimant employed for the same hours and wages?

Does the claimant meet the definition of being considered partially unemployed?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed for this employer as a home care provider. Her job duties consist of caring for clients in their homes. Ms. Stecklein is claimant's immediate supervisor.

Claimant's base period consists of the third and fourth quarter of 2018 and the first and second quarter of 2019. During her base period, claimant averaged approximately 26 hours per week. Since November of 2019, claimant's hours have been reduced to five hours per week. Claimant's hours were reduced because a client she was caring for had passed away and Ms. Stecklein has not assigned the claimant to additional clients. Claimant has not been assigned to additional clients because Ms. Stecklein believes that claimant's disability prohibits her from working with certain clients. Claimant has no work restrictions. Claimant has never been disciplined for poor work performance due to her disability. Ms. Stecklein will assign the

claimant to clients if she is the only person available to work. Claimant has worked each of the weeks that she has filed weekly-continued claims for unemployment insurance benefits and has reported her wages earned each week. The claimant is able to and available for work consistent with her base period employment.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed effective November 10, 2019. Benefits are allowed, provided the claimant is otherwise eligible. The employer may be charged for benefits paid.

Iowa Code § 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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Code § 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.

Iowa Code § 96.7(2)a(2)(a),(b), and (c) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the

employers in the base period in the inverse chronological order in which the employment of the individual occurred.

- (a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and § 96.8, subsection 5.
- (b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding § 96.8, subsection 5.
- (c) The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under § 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under § 85.33, § 85.34, subsection 1, or § 85A.17, or responsible for paying indemnity insurance benefits.

The claimant's regular job averaged her working 26 hours per week. The claimant is not receiving the same employment from the employer she received during her base period. The claimant is therefore considered partially unemployed. Benefits may be allowed based upon reporting of weekly earnings. The employer's account may be charged for benefits paid.

**DECISION:**

The November 21, 2019 (reference 01) unemployment insurance decision is affirmed. The claimant is still employed part-time whenever work is available and is considered able to and available for work. The claimant is not performing services in the same pattern of employment as in the base period and the employer's account may be charged for benefits paid. Benefits are allowed, provided the claimant is otherwise eligible. Claimant is required to report gross wages earned for each week of benefits claimed.

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Dawn Boucher  
Administrative Law Judge

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Decision Dated and Mailed

db/scn