

**BEFORE THE
EMPLOYMENT APPEAL BOARD
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Website: eab.iowa.gov**

TEJUMADE B GORDON

Claimant

: **APPEAL NUMBER:** 24B-UI-11463

: **ALJ HEARING NUMBER:** 23A-UI-11463

:

and

:

EMPLOYMENT APPEAL BOARD

:

DECISION

HOPE HAVEN INC

:

:

Employer

:

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-2 24.32

DECISION

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The Employment Appeal Board **AFFIRMED AND MODIFIED WITH NO ADVERSE EFFECT ON THE EMPLOYER** as set forth below.

FINDINGS OF FACT:

The Administrative Law Judge's findings of fact are adopted by the Board as its own except that the year "2018" referenced in the Administrative Law Judge's findings of fact is an evident typographical error and is corrected to "2023."

The Board finds in addition the following.

The Claimant worked part-time for Hope Haven. The records of the Department establish the following uncontested monetary record for this Claimant for her claim. The Claimant filed for benefits in the fourth quarter of 2023. This makes the Claimant's base period the last two quarters of 2022 and the first two quarters of 2023. The Claimant has the following wages in that period:

Employer	Q3, 2022	Q4, 2022	Q1, 2023	Q2, 2023
JTD	614.88	6601.36	6754.19	7218.82
Hope Haven	0	0	0	514.50

Total Wages: \$21,703.32 Credits (=1/3 wages): \$7,234.58 WBA [4 dependents]: \$407.00

The \$514.50 from Hope Haven represents 2% of the base period wages and JTD is 98% of those wages. In the second quarter of 2023, the only base period quarter when Claimant worked for Hope Haven, the Hope Haven wages are 6.6% of the earnings reported.

In as much as the Claimant filed in the fourth quarter of 2024 we will look at those wages as well to see the pattern of earnings:

Employer	Q3, 2023	Q4, 2024
JTD	15,348	3,555
Hope Haven	1,314	
Windsor	870	
Total	17,352	3,555

So in the quarter immediately prior to filing for benefits (the quarter the Claimant lost work at Hope Haven), the Claimant earned 7.5% of her wages at Hope Haven, and 87.5% of her wages at JTD. Looking at the two quarters when the Claimant worked for Hope Haven the wages earned at Hope Haven were 7% of her total wages. Meanwhile, JTD was 89% of the wages in these two quarters. Thus, during the base period, during the quarter when the Claimant lost work at Hope Haven, and during every quarter the Claimant worked for Hope Haven she earned no more than 7.5% of her wages at Hope Haven.

REASONING AND CONCLUSIONS OF LAW:

Workers who are disqualified for a separation from part-time supplemental work may be eligible to receive reduced unemployment insurance benefits, provided they have sufficient wage credits from other employers to be monetarily eligible and provided they are otherwise eligible. Iowa Code §96.5(12). This is true for both quit and discharges since the Code applies this partial disqualification “[i]f the department finds that an individual is disqualified for benefits under subsection 1 [quits] or 2 [discharges] based on the nature of the individual’s separation from supplemental part-time employment...”

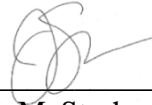
As we have found the Claimant’s work with Hope Haven was part-time work. Given these wage records we find it was very obviously supplemental. Notably, with these figures only JTD could make Claimant eligible for benefits by itself and accounts for 98% of the base period wages. Thus, JTD is clearly the “regular” employer. This means the Claimant’s disqualification, which we have today affirmed, should only disqualify her from drawing on the wage credits earned at Hope Haven. It does appear that exclusion of Hope Haven will affect the Claimant’s weekly benefit amount (reduce it from \$407 to \$379) and the maximum benefit amount is reduced likewise (because sixteen weeks at \$379 is less than sixteen weeks at \$407). Although we can do the calculation we will remand the matter to Iowa Workforce, Benefits Bureau to allow benefits but without considering the wages from Hope Haven Inc. This assumes, of course, that the Claimant remains otherwise eligible.

In no event will this employer Hope Haven's account be assessed for benefits paid to the Claimant. Further, wage credits accrued during the employment shall not be considered in determining benefits for the Claimant until the Claimant has worked in and been paid for insured work equal to ten times her weekly benefit amount.

DECISION:

The decision of the Administrative Law Judge is **MODIFIED IN THE CLAIMANT'S FAVOR**. The Claimant is allowed benefits to the extent that she is eligible based on credits earned with employers other than Hope Haven, and only denied the ability to draw on credits earned with Hope Haven, if she is otherwise eligible. This denial of the ability to draw on Hope Haven credits is lifted once the Claimant has worked in and been paid for insured work equal to ten times her weekly benefit amount following the Hope Haven separation.

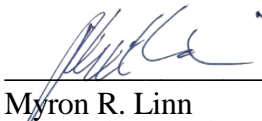
Hope Haven will not be chargeable for benefits paid in the past on this claim, nor will it be chargeable for benefits paid in the future, including those on a subsequent benefit year claim, if any were to be filed. This is so even if the Claimant requalifies through earnings to draw on Hope Haven credits, in which case the fund will be charged for those credits.



James M. Strohman



Ashley R. Koopmans



Myron R. Linn

RRA/fnv

DATED AND MAILED: FEB 23 2024