

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARTIN J BIRKETT
Claimant

RITE-HITE DOORS INC
Employer

APPEAL 21A-UI-07388-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/14/21
Claimant: Appellant (5)

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.19(38)B – Total, Partial, Temporary Unemployment

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the March 2, 2021 (reference 01) unemployment insurance decision that found the claimant was not eligible for unemployment benefits effective February 14, 2021 as he was still employed at the same hours and same wages as his original contract of hire. The parties were properly notified of the hearing. A telephone hearing was held on May 21, 2021. The claimant participated personally. Jolene Lewis and Frederick Hoag participated as witnesses for the claimant. The employer participated through witness Dawn Sheffer. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUES:

Was the claimant able to and available for work?
Was the claimant eligible for total, temporary or partial unemployment benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed full-time for this employer as a manufacturing associate. On Monday, February 15, 2021, he learned that he had come in close contact with an individual who tested positive for COVID-19. He reported this to management and was required to quarantine under the employer's COVID-19 mitigation policy. Claimant provided two doctor's notes to the employer dated February 18, 2021 and February 25, 2021. Both doctor's notes instructed the claimant to quarantine and not work until Saturday, February 27, 2021. Claimant does not typically work on Saturdays and returned to his normal job duties on the next working day, Monday, March 1, 2021.

Claimant filed an original claim for unemployment insurance benefits effective February 14, 2021. His established weekly benefit amount was \$418.00. He filed weekly-continued claims for benefits for two weeks between February 14, 2021 and February 27, 2021. Claimant earned \$16.76 per hour. He worked 4 hours and earned wages at the rate of \$16.76 per hour on Monday, February 15, 2021. Claimant also earned vacation pay at \$16.76 per hour for 36 hours during the remainder of the week-ending February 20, 2021. Claimant earned 40 hours of

vacation pay at the rate of \$16.76 per hour for the week-ending February 27, 2021. Claimant did not properly report his wages and vacation pay earned when he filed his weekly-continued claim for benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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 Admin. Code r. 871-24.23(35) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Iowa Code section 96.5(7) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

7. Vacation pay.

a. When an employer makes a payment or becomes obligated to make a payment to an individual for vacation pay, or for vacation pay allowance, or as pay in lieu of vacation, such payment or amount shall be deemed "wages" as defined in section 96.1A, subsection 41, and shall be applied as provided in paragraph "c" hereof.

b. When, in connection with a separation or layoff of an individual, the individual's employer makes a payment or payments to the individual, or becomes obligated to make a payment to the individual as, or in the nature of, vacation pay, or vacation pay allowance, or as pay in lieu of vacation. The amount of a payment or obligation to make payment, is deemed "wages" as defined in section 96.1A, subsection 41, and shall be applied as provided in paragraph "c" of this subsection 7.

c. Of the wages described in paragraph "a" or paragraph "b", a sum equal to the wages of such individual for a normal workday shall be attributed to, or deemed to be payable to the individual with respect to, the first and each subsequent workday in such period until such amount so paid or owing is exhausted, not to exceed five workdays. Any individual receiving or entitled to receive wages as provided herein shall be ineligible for benefits for any week in which the sums equal or exceed the individual's weekly benefit amount. If the amount is less than the weekly benefit amount of such individual, the individual's benefits shall be reduced by such amount.

d. Notwithstanding contrary provisions in paragraphs "a", "b", and "c", if an individual is separated from employment and is scheduled to receive vacation payments during the period of unemployment attributable to the employer then payments made by the employer to the individual or an obligation to make a payment by the employer to the individual for vacation pay, vacation pay allowance or pay in lieu of vacation shall not be deemed wages as defined in section 96.1A, subsection 41, for any period in excess of five workdays and such payments or the value of such obligations shall not be deducted for any period in excess of one week from the unemployment benefits the individual is otherwise entitled to receive under this chapter.

e. If an employer pays or is obligated to pay a bonus to an individual at the same time the employer pays or is obligated to pay vacation pay, a vacation pay allowance, or pay in lieu of vacation, the bonus shall not be deemed wages for purposes of determining benefit eligibility and amount, and the bonus shall not be deducted from unemployment benefits the individual is otherwise entitled to receive under this chapter.

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit

amount plus \$15, the formula for wage deductions shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

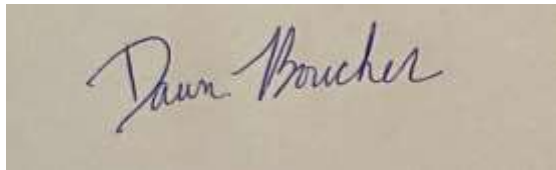
This rule is intended to implement Iowa Code § 96.3, 96.4 and 96.19(38).

Because the claimant was under the care of a medical practitioner and was quarantining due to potential COVID-19 exposure from February 15, 2021 through February 27, 2021, he was not considered able to and available for work pursuant to Iowa law. As such, regular unemployment insurance benefits funded by the State of Iowa are denied effective February 14, 2021 through February 27, 2021.

Even if the claimant was considered able to and available for work, the claimant must properly report all gross wages and vacation pay earned when filing the weekly-continued claims for benefits. Claimant's gross wage earnings and vacation pay earnings exceed his weekly-benefit amount plus \$15.00 and he would also not be eligible for benefits due to excessive earnings.

DECISION:

The March 2, 2021 (reference 01) unemployment insurance decision is modified with no change in effect. The claimant was not able to work or available for work effective February 14, 2021 through February 27, 2021. Benefits are denied for that two-week period.

A photograph of a handwritten signature in blue ink on a light-colored background. The signature reads "Dawn Boucher" in a cursive script.

Dawn Boucher
Administrative Law Judge

May 28, 2021
Decision Dated and Mailed

db/ol

Note to Claimant

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa 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 funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance ("PUA") section of the Coronavirus Aid, Relief, and Economic

Security Act (“Cares Act”) that discusses eligibility for claimants who are unemployed due to the Coronavirus.

- You will need to apply for PUA to determine your eligibility under the program. For additional information on how to apply for PUA go to:
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to “Submit Proof Here.” You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.