

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

REBEKAH A NELSON
Claimant

PRODENCO GROUP INC
Employer

APPEAL 20A-UI-08242-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Respondent (2)

Iowa Code § 96.19(38) – Total, partial unemployment
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages
Iowa Code § 96.7(2)a(2) – Charges – Same base period employment

STATEMENT OF THE CASE:

On July 13, 2020, Prodenco Group Inc (employer/appellant) filed a timely appeal from the July 9, 2020 (reference 01) unemployment insurance decision that determined Rebekah Nelson (claimant/respondent) was eligible to receive unemployment insurance benefits effective March 29, 2020.

A telephone hearing was held on August 25, 2020. The parties were properly notified of the hearing. Claimant did not register a number for the hearing and did not participate. Employer participated by Controller Larry Corrington and Assistant Controller Amy Prato.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?
- III. Is the claimant still employed at the same hours and wages? Is the employer's account subject to charge?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer on April 22, 2019. Claimant is still employed by employer full-time as a dental lab technician. Claimant typically worked 34 hours per week. Claimant's hours began to fluctuate beginning on or about March 30, 2020 and continuing to present. However, claimant was paid for at least 34 hours of work each week during this period, even if she worked less than that amount. Claimant's hourly wage was \$16.00.

Claimant's weekly benefit amount is \$377.00. Claimant filed claims for benefits for the weeks ending April 4 and 11, 2020. She reported \$200.00 in wages for the week ending April 4 and \$56.00 in wages for the week ending April 11. However, claimant's gross wages in these weeks were at least \$544.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the July 9, 2020 (reference 01) unemployment insurance decision that determined claimant was eligible to receive unemployment insurance benefits effective March 29, 2020 is REVERSED.

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.

Claimant is not totally, partially, or temporarily unemployed during the weeks from March 29, 2020 and continuing to present. While claimant's hours began to fluctuate beginning on or about March 30, 2020, she was paid for at least 34 hours of work each week during this period. Her weekly benefit amount is \$377.00 and her weekly gross wages were at least \$544.00 each week. There were therefore no weeks when no wages were payable to claimant or when she earned less than her weekly benefit amount plus \$15.00.

Because claimant was not unemployed within the meaning of the law, she is not eligible for benefits. Benefits are denied.

DECISION:

The July 9, 2020 (reference 01) unemployment insurance decision that determined claimant was eligible to receive unemployment insurance benefits effective March 29, 2020 is REVERSED. Benefits are denied effective March 29, 2020.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

August 27, 2020
Decision Dated and Mailed

abd/mh

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for regular unemployment insurance benefits but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.