

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JACK W THOMAS**  
Claimant

**DUBUQUE HOLY FAMILY CATHOLIC**  
Employer

**APPEAL 21A-UI-04364-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/12/20**  
**Claimant: Appellant (4R)**

Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.7(2)a(2) – Employer Contributions and Reimbursements

**STATEMENT OF THE CASE:**

On February 1, 2021, the employer, Dubuque—Holy Family Catholic, filed an appeal on behalf of claimant Jack W. Thomas, from the January 22, 2021 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was still employed at the same hours and wages and was therefore ineligible for benefits. Claimant Jack W. Thomas appealed the same decision on February 3, 2021, and this was set up by the intake department as a claimant appeal. The parties were properly notified of the hearing. A telephonic hearing was held on Thursday, April 8, 2021. The claimant, Jack W. Thomas, participated. The employer, Dubuque—Holy Family Catholic, participated through witness Mary Sulentic, Human Resources; and hearing representative Paul Jahnke represented the employer. Claimant's Exhibit 1 and Employer's Exhibit 1 were offered and admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Was claimant Jack W. Thomas totally, partially, or temporarily unemployed effective April 12, 2021?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for the employer as an early childhood associate on August 23, 2017. Claimant remains employed with the employer in this capacity, working a part-time schedule when he is in school and a full-time schedule when he is not in school.

In the spring of 2020, the employer experienced significantly low census in its childcare center where claimant worked due to COVID-19. As a result of this low census, the employer conducted intermittent layoffs of employees. Employees would alternately work two weeks and then be laid off for two weeks. Later, this was shortened to working one week and being laid off for one week.

Claimant filed weekly continued claims for benefits for the weeks ending May 23, May 30, and June 6, 2020.

For the week ending May 23, 2020, claimant reported \$365.00 in wages and received no benefits. Claimant's timecard from the employer reflects he worked a full week that week. (Employer Exhibit 1)

For the week ending May 30, 2020, claimant reported no wages and received full benefits. Claimant's timecard from the employer reflects he did not work that week. (Employer Exhibit 1)

For the week ending June 6, 2020, claimant reported \$25.00 in wages and received full benefits. Claimant's timecard from the employer reflects he worked ten hours that week. (Employer Exhibit 1)

Claimant did not file any weekly claims after June 6, 2020. Sulentic testified that most employees were returned to work around this time, as the census in the childcare center was rising.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was eligible for benefits for the two weeks ending June 6, 2020. The underlying decision is modified in favor of claimant/appellant.

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.

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 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".

Here, claimant worked no hours during the week ending May 30, 2020. He was totally unemployed that week due to a layoff due to the pandemic. The information in the administrative record combined with the information from the employer supports a finding that claimant was totally unemployed this week.

For the week ending June 6, 2020, claimant appears to have been partially unemployed. The employer's records indicate he worked only ten hours that week. He was eligible for partial benefits as he was partially unemployed due to the pandemic.

The issue of whether claimant under-reported his wages for the week ending June 6, 2020, will be remanded for further investigation.

**DECISION:**

The January 22, 2021 (reference 01) unemployment insurance decision is modified in favor of claimant.

Claimant was totally unemployed due to the pandemic for the week ending May 30, 2020. Benefits are allowed, provided claimant is otherwise eligible.

Claimant was partially unemployed due to the pandemic for the week ending June 6, 2020.

**REMAND:**

The issue of whether claimant under-reported the wages he earned during the week ending June 6, 2020, is remanded to the Integrity Bureau of Iowa Workforce Development for further investigation and determination.



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Elizabeth A. Johnson  
Administrative Law Judge

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April 13, 2021  
Decision Dated and Mailed

lj/ol