

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**ALAN K HINDERMAN**  
Claimant

**PORTZEN CONSTRUCTION INC**  
Employer

**APPEAL 20A-UI-05239-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/08/19  
Claimant: Respondent (2R)**

---

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
PL 116-136, Sec. 2104(b) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

On May 22, 2020, the employer filed a timely appeal on claimant's behalf from the May 14, 2020, (reference 01) unemployment insurance decision that denied benefits based on claimant's availability for work. The parties were properly notified about the hearing. A telephone hearing was held on June 23, 2020. Claimant participated. His spouse observed. Employer participated through human resource director Abbey Kiburz.

**ISSUES:**

Is the claimant able to and available for work?  
Is the claimant on a voluntary leave of absence?  
Was the claimant overpaid unemployment insurance benefits?  
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer in 2008. Claimant last worked as a full-time plumber.

Claimant's wife has had two open heart surgeries. Claimant's wife most recently had surgery in December 2019.

Most recently, claimant's last day of work was March 26, 2020. Work was slowing down for employer because of COVID 19. Employer had to lay off plumbers. Because of his wife's underlying health condition, claimant and his supervisor agreed he would be a good candidate for layoff during the pandemic.

Since the layoff, employer has laid off additional employees. Employer does not currently have enough work to bring claimant back.

When employer has enough work to call claimant back, claimant will return to work provided that accommodations can be made that will allow claimant to remain safe.

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

In order to receive regular unemployment insurance benefits under Chapter 96 of the Iowa Code, a totally unemployed claimant must establish he or she is able to and available for work. Iowa Code § 96.4(3).

A claimant is restricting his availability for work if he or she requests a leave of absence.

Iowa Admin. Code r. 871-24.23(10) provides:

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

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

In this case, employer laid claimant off due to lack of work. Claimant did not request a leave of absence. Employer does not have work available for claimant due to the COVID 19 pandemic. Claimant will consider returning to work when employer has work to give him, if accommodations can be made that would allow him to remain safe.

Claimant is eligible for regular, state-funded unemployment insurance benefits. Therefore, claimant has not been overpaid those benefits he received prior to the denial decision being issued.

Because claimant is eligible for regular, state-funded unemployment insurance benefits, he is also eligible for Federal Pandemic Unemployment Compensation, which is federally funded and not charged to employers. See PL 116-136, Section 2104(b).

The issue of whether the employer will be charged for regular, state-funded unemployment insurance benefits paid due to the COVID 19 pandemic will be remanded to the Tax Bureau of Iowa Workforce Development for a determination in accordance with the agency's announcement that it would not charge employers for benefits paid due to the COVID 19 pandemic.

**DECISION:**

The May 14, 2020, (reference 01) decision is reversed. Claimant was laid off due to lack of work. Benefits are allowed effective March 29, 2020, provided the claimant is otherwise eligible.

**REMAND:**

The issue of whether employer should be charged for the unemployment insurance benefits paid to claimant from March 29, 2020, going forward because of the COVID 19 pandemic is remanded to the Tax Bureau of Iowa Workforce Development for a determination.



---

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

July 1, 2020  
Decision Dated and Mailed

cal/scn