

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

CAITLIN N CUMINGS
Claimant

APPEAL NO. 20A-UI-10559-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC
Employer

OC: 04/05/20
Claimant: Respondent (1)

Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.7(2)A(2) – Partial Benefits
Iowa Code § 96.19(38) – Total and Partial Unemployment

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated June 26, 2020, reference 01, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on October 1, 2020. Claimant participated personally. Employer participated by Monica Dyer.

ISSUES:

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

The claimant currently works for West Liberty Foods, a base period employer, full time under the same terms and conditions as contemplated in the original contract of hire.

In April of this year, employer made the determination that they would have a drastic reduction in the workforce as a result of Covid. Employer put 200 employees on temporary layoff. In early April, employer announced these layoffs and offered claimant and others an opportunity to take a furlough. Claimant took this opportunity to be furloughed. Claimant would have been furloughed by employer had she not offered to be furloughed, as claimant's position was temporarily not going to exist.

At no time did claimant request that she be given time off. The furlough was initiated by employer exclusively.

Throughout the entire time period while claimant was furloughed, she was able and available to work and claimant did return to work as soon as employer called claimant back to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was temporarily unemployed for the period between April 7, 2020 and May 11, 2020 as a direct result of Covid greatly affective of employer's business.

Iowa Code section 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".

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.

Because the claimant was furloughed at the choice of employer, who stated that claimant would have been furloughed whether or not she agreed to be furloughed, claimant is considered temporarily unemployed for the period between April 7, 2020 and May 11, 2020. Benefits are allowed.

DECISION:

The June 26, 2020, reference 01, decision is affirmed. The claimant was temporarily unemployed for the period between April 7, 2020 and May 11, 2020 and benefits are allowed, provided claimant is otherwise eligible. This furlough occurred as a result of Covid.



Blair A. Bennett
Administrative Law Judge

October 2, 2020
Decision Dated and Mailed

bab/sam