

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JAMISON K PARKHILL**  
Claimant

**APPEAL 20A-UI-12403-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NEBRASKA CHRISTIAN COLLEGE**  
Employer

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

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Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

**STATEMENT OF THE CASE:**

Jamison Parkhill (claimant) appealed a representative's October 1, 2020, decision (reference 01) that denied benefits based on his continued employment with Nebraska Christian Coll (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 7, 2020. The claimant participated personally. The employer participated by Ellen Nialis, Director of Human Resources. The administrative law judge took official notice of the administrative file.

**ISSUES:**

The issue is whether the claimant is eligible for total or partial unemployment benefits, still employed at the same hours and wages, whether the claimant is able and available for work and/or whether the employer's account is subject to charge.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: Hope International University acquired the college in 2016. The claimant worked for the employer from August 1, 2019, to May 31, 2020, as a part-time athletic assistant coach for men's soccer. The employer notified employees on March 28, 2020, that the school was closing as of May 31, 2020. The employer paid the claimant wages through May 31, 2020.

The claimant and employer entered into a severance agreement where the claimant waived and released the employer from certain liabilities in exchange for \$1,055.04. The claimant signed the document on May 31, 2020, and the employer signed it on June 16, 2020. The school closed and the location is for sale/rent.

The claimant worked as a nanny from June 8, 2020, through August 14, 2020, and was paid \$500.00 per week. After August 14, 2020, the claimant became the care provider for his two children, aged one and three. His spouse works from 7:00 a.m. to 5:00 p.m.

The claimant filed for unemployment insurance benefits with an effective date of April 12, 2020. His weekly benefit amount was determined to be \$518.00. The claimant received no state unemployment insurance benefits or Federal Pandemic Unemployment Compensation after April 12, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

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.

Iowa Admin. Code r. 871-24.23(7), (8), (23) and (26) provide:

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

(7) Where an individual devotes time and effort to becoming self-employed.

(8) Where availability for work is unduly limited because of not having made adequate arrangements for childcare.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant worked for the employer and completed his verbal contract on May 31, 2020. For the seven-week period ending May 30, 2020, the employer had work available for the claimant in the same manner as when he was hired. The claimant cannot be considered partially unemployed during this period.

When a worker is separated from employment for more than four weeks, he is totally unemployed. The claimant has been separated from the employer for more than four weeks. He is totally unemployed. 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). The next issue is whether he is able to and available for work.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When a person is devoting time and effort to being self-employed, he is considered to be unavailable for work. Likewise, when an individual is spending working hours caring for children, he is considered to be unavailable for work.

After his contract ended, he was working as a nanny and earning \$500.00 per week from June 8, 2020, through August 14, 2020. When an employee is spending working hours caring for his children, he is considered to be unavailable for work. The claimant has cared for his children during working hours since August 16, 2020. He is considered to be unavailable for work. The claimant is disqualified from receiving unemployment insurance benefits as of June 7, 2020.

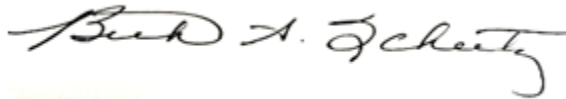
Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

**DECISION:**

The October 1, 2020, (reference 01) unemployment insurance decision is modified in favor of the claimant. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work except for the one-week period ending June 6, 2020. Benefits are allowed for the one-week period ending June 6, 2020, provided the claimant is otherwise eligible.

The following issues are remanded for determination by the Benefits Bureau: the claimant's separation from employment, the employer's business closure, the claimant's separation agreement.

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify 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 under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



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Beth A. Scheetz  
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December 15, 2020  
Decision Dated and Mailed

bas/mh