

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ADRIANA M SALINAS**  
Claimant

**CHRISTIAN RETIREMENT HOMES INC**  
Employer

**APPEAL 20A-UI-14103-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/02/20  
Claimant: Respondent (4)**

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search  
Iowa Code § 96.19(38) – Total, partial unemployment

**STATEMENT OF THE CASE:**

On November 5, 2020, Christian Retirement Homes Inc. (employer/appellant) filed a timely appeal from the October 28, 2020 (reference 01) unemployment insurance decision that determined claimant was eligible for benefits beginning August 2, 2020, based on a finding she was unemployed due to a short-term layoff and was able and available for work during the layoff.

A telephone hearing was held on January 6, 2021. The parties were properly notified of the hearing. Adriana Salinas (claimant/respondent) did not register a number for the hearing and did not participate. Employer participated by HR Director Sherry Rodriguez.

Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Is the claimant able to and available for work?
- II. Is the claimant totally, partially, or temporarily unemployed?

**FINDINGS OF FACT:**

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

Claimant began working for employer on August 21, 2013. Claimant was employed full-time as a cook. The last day claimant performed work for employer was November 4, 2020. Claimant resigned for another position at that time.

Employer held claimant out of work from July 30 until August 9, 2020 because she reported having COVID-related symptoms. She was not paid during this time, although she did take some paid time off. Claimant reported vacation wages in the amount of \$323.00 when she filed her claim for that week. Other than the week ending August 8, 2020, claimant has filed claims for the weeks ending December 12 and 19, 2020.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the October 28, 2020 (reference 01) unemployment insurance decision that determined claimant was eligible for benefits beginning August 2, 2020 is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth below. Employer shall not be charged for benefits paid.

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.

Claimant was totally unemployed during the benefit week ending August 8, 2020. She was able and available for work during this week but was held out of work due to having COVID-related symptoms. Claimant is therefore eligible for benefits during that week. However, employer shall not be charged for benefits paid, as the department has determined not to charge employers for pandemic-related unemployment.

Claimant is not eligible for benefits during the other two weeks she filed claims, the week ending December 12 and 19, 2020. This is because claimant has not carried her burden of proving that she was able to and available for work during those weeks.

**DECISION:**

The October 28, 2020 (reference 01) unemployment insurance decision that determined claimant was eligible for benefits beginning August 2, 2020 is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth above. Employer shall not be charged for benefits paid.



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

January 25, 2021  
Decision Dated and Mailed

abd/scn

**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>.