

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DARION K BURN**  
Claimant

**FEDEX GROUND PACKAGE SYSTEM INC**  
Employer

**APPEAL 20A-UI-07310-S1-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/19/20**  
**Claimant: Appellant (4)**

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

**STATEMENT OF THE CASE:**

Darion Burn (claimant) appealed a representative's June 25, 2020, decision (reference 02) that denied benefits as of April 19, 2020, because he was still employed with Fedex Ground Package System (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 6, 2020. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. 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: The claimant was hired on or about May 6, 2020, as a part-time package handler. He was hired to work twenty-five to thirty hours per week. His hourly wage was approximately \$14.25 per hour. The claimant was a full-time student but his school schedule did not affect his work schedule. He also worked part-time for an animal kennel.

In March 2020, when Covid-19 started in Iowa, the employer began to reduce the claimant's hours. The kennel closed. The claimant filed for unemployment insurance benefits with an effective date of April 19, 2020. His weekly benefit amount was determined to be \$191.00.

The claimant was unable to work for the two-week period ending July 18, 2020, because he was quarantining after an exposure to the virus at work. He returned to work on or about July 20,

2020. The employer has not returned his hours to twenty-five to thirty hours per week. The claimant is working all hours the employer schedules for him.

The claimant has received a total of \$687.00 in state unemployment insurance benefits for the nine-week period ending June 20, 2020, and \$4,800.00 in Federal Pandemic Unemployment Compensation for the nine-week period ending June 20, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Admin. Code r. 871-24.23(26) provides:

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

(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.

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(10) provides:

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

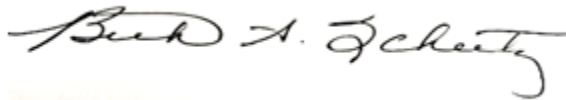
(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

When a worker is still employed working part-time at the same hours and wages as his original contract, and his hours are not reduced, he is not considered partially unemployed. The claimant's hours were reduced from his normal hours and wages from April 19, 2020, to July 4, 2020, and starting again on July 26, 2020. The claimant is considered partially unemployed for that period and able and available for work.

The claimant was totally unemployed for the two-week period ending July 18, 2020, and must be able and available for work. He requested and was granted time off to quarantine for those two weeks. The claimant has not established he is able to and available for work. The claimant is considered to be on a leave of absence due to the quarantine and is not available for work. Therefore, the claimant is not eligible for unemployment insurance benefits for the two-week period ending July 18, 2020.

**DECISION:**

The June 25, 2020, (reference 02) unemployment insurance decision is modified in favor of the appellant. The claimant is not able to work and available for work for the two-week period ending July 18, 2020. Benefits are allowed from April 19, 2020, to July 4, 2020, and starting again on July 26, 2020, because the claimant was partially unemployed.



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Beth A. Scheetz  
Administrative Law Judge  
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August 14, 2020  
Decision Dated and Mailed

bas/mh