

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JENELL YORK**  
Claimant

**CITY OF AMES**  
Employer

**APPEAL 20A-UI-06321-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**  
**Claimant: Appellant (1/R)**

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Iowa Code § 96.4-3 – Able and Available  
871 IAC 24.23(10) – Voluntary Leave of Absence  
Iowa Code § 96.3-7 – Overpayment  
PL 116-136 Section 2104 (B) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Jenell York (claimant) appealed a representative's June 1, 2020, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits as of March 29, 2020, because a leave of absence was granted by City of Ames (employer) at the claimant's request. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 21, 2020. The claimant participated personally. The employer participated by Krista Hammer, Human Resources Officer Two, and Chris Crippen, Assistant Director of Operations.

The administrative law judge took official notice of the administrative file. The parties waived notice on the issue of whether the claimant was overpaid unemployment insurance benefits and whether the claimant was overpaid/eligible to receive Federal Pandemic Unemployment Compensation.

**ISSUES:**

The issue is whether the claimant is available for work whether the claimant was overpaid benefits, and whether the claimant is overpaid or eligible for Federal Pandemic Unemployment Compensation.

**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 October 8, 2018, as a part-time transit driver. Her hours varied from six hours per week to 27.5 hours per week, depending on the time of year. The claimant sent her son to a daycare that only offered full-time care. She had to pay for full-time care whether she needed it or not.

On March 26, 2020, due to Covid-19, the employer notified the claimant she would be working her six hour per week schedule. The claimant told the employer she did not want to work the

six hours per week or be scheduled for any hours. The claimant did not want to pay for full-time daycare and work part-time hours any longer. The employer moved the claimant to “zero hour status” and the claimant cared for her son.

The claimant filed for unemployment insurance benefits with an effective date of March 22, 2020. Her weekly benefit amount was determined to be \$278.00. The claimant received benefits from March 22, 2020, to the week ending May 23, 2020, for a total of \$2,341.00 in state unemployment insurance benefits after the separation from employment. She also received \$4,800.00 in Federal Pandemic Unemployment Compensation for the eight-week period ending May 23, 2020.

In June 2020, the claimant told the employer she was quitting, effective immediately. She quit to go back to school. Work was available at all times for the claimant.

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

Iowa Admin. Code r. 871-24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

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 employees request and are granted time away from work, they are considered to be voluntarily unemployed. The claimant requested personal time off and the employer granted the request. The claimant is considered to be voluntarily unemployed, or unavailable for work, during the period of absence and is not eligible to receive unemployment insurance benefits from March 29, 2020.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she 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.

The next issue is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code section 96.3(7)a-b, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

The claimant received \$2,341.00 in state unemployment insurance benefits. This was during the period of time the claimant has been determined to be ineligible to receive benefits. This decision denies benefits. If this decision becomes final or if the claimant is not eligible for PUA, the claimant will have an overpayment of benefits.

The final issue is whether the claimant is eligible for or overpaid Federal Pandemic Unemployment Compensation

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.-- In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

The claimant has been disqualified from receiving regular unemployment insurance benefits. The claimant has received \$4,800.00 in Federal Pandemic Unemployment Compensation. If this decision becomes final or if the claimant is not eligible for PUA, the claimant will have an overpayment of benefits.

The issue of the separation from employment is remanded for determination.

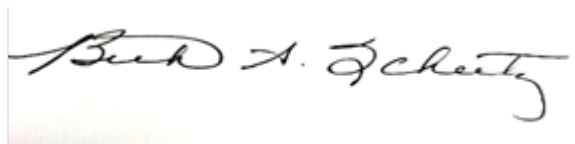
**DECISION:**

The representative's June 1, 2020, decision (reference 01) is affirmed. The claimant is considered to be unavailable for work and is not eligible to receive unemployment insurance benefits from March 29, 2020.

The claimant has received \$2,341.00 in state unemployment insurance benefits and \$4,800.00 in Federal Pandemic Unemployment Compensation. This decision denies benefits. If this decision becomes final or if the claimant is not eligible for PUA, the claimant will have an overpayment of benefits.

The issue of the separation from employment is remanded for determination.

*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  
Administrative Law Judge

July 28, 2020  
Decision Dated and Mailed

bas/scn