

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ANNE M HEADLEE**  
Claimant

**GENESIS HEALTH SYSTEM**  
Employer

**APPEAL 18A-UI-08868-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/29/18**  
**Claimant: Appellant (4)**

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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 Code § 96.7(2)a(2) – Same Base Period Employment  
Iowa Admin. Code r. 871-23.43(4)a – Supplemental Employment

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the August 17, 2018, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 11, 2018. Claimant participated. Employer did not register for the hearing and did not participate.

**ISSUES:**

Is the claimant totally or partially unemployed?  
Is the claimant able to work and available for work effective July 29, 2018?  
Is the employer's account subject to charge?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer in January 2016. Claimant has full-time wages in her base period from this employer and one other employer. Effective December 2017, claimant began working for employer on a part-time, on-call supplemental basis. Claimant then began full-time employment with John Deere. Claimant was temporarily laid off from John Deere for the one week ending August 4, 2018. Claimant also was not offered and did not work any hours for employer that week.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was totally unemployed during the one week ending August 4, 2018, and is eligible for benefits and this part-time employer is relieved of benefit charges.

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 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 96.7(2)a(2)(a), (b), and (c) provides:

2. Contribution rates based on benefit experience.
  - a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.
    - (a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and

reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

(b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(c) The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

Iowa Admin. Code r. 871-23.43(4)a provides in part:

(4) Supplemental employment.

a. An individual, who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer, continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges.

Claimant is considered totally unemployed during the one week ending August 4, 2018. Although she did not work any hours for employer that week, she remains employed in the same capacity as agreed in December 2017. Because the claimant has other base-period wages and remains employed on the same supplemental basis, she is considered unemployed and available for work. Benefits are allowed if she is otherwise eligible. Inasmuch as the current part-time employer is offering the same wages and hours as contemplated in December 2017, no benefit charges shall be made to its account.

**DECISION:**

The August 17, 2018, (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant is unemployed and benefits are allowed, provided she is otherwise eligible. The account of the current part-time employer Genesis Health System (account number 253790) shall not be charged. The benefits withheld shall be paid to claimant, provided she is otherwise eligible.

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Christine A. Louis  
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Decision Dated and Mailed

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