

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KATELYN HALBERT
Claimant

THE UNIVERSITY OF IOWA
Employer

APPEAL NO. 20A-UI-06697-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (4/R)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Katelyn Halbert filed a timely appeal from the June 15, 2020, reference 02, decision that denied benefits for the period beginning April 5, 2020, based on the deputy's conclusion that Ms. Halbert was not partially unemployed within the meaning of the law. After due notice was issued, a hearing was held on July 28, 2020. Ms. Halbert participated. Jessica Wade, Human Resources Business Analyst, represented the employer. Exhibits A through D were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUES:

Whether the claimant has been able to work and available for work since April 5, 2020.
Whether the claimant has been partially unemployed since April 5, 2020.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Katelyn Halbert established an original claim for benefits that was effective April 5, 2020. Iowa Workforce Development set Ms. Halbert's weekly benefit amount at \$224.00. By the time of the July 28, 2020 appeal hearing, Ms. Halbert had made weekly claims for the 15 consecutive weeks between April 5, 2020 and July 18, 2020. The University of Iowa is the primary base period employer in connection with the claim, though the claimant had additional base period wages from Central College and Quad City Symphony Orchestra.

Until May 15, 2020, Ms. Halbert was a Ph.D. student in the music department at The University of Iowa. During the 2019-2020, Ms. Halbert has a teaching assistant appointment at The University of Iowa. The teaching assistantship start date and end date were August 21, 2019 through May 15, 2020, roughly 38 weeks. Ms. Halbert's compensation for the teaching assistantship was a \$9,822.00 stipend to be paid in 10 equal installments (\$982.20) between September 1, 2019 and June 1, 2020. The \$9,822.00 divided over the 38 weeks of the employment period yields weekly wages of \$258.47 per week. Ms. Halbert completed the terms of the teaching assistantship May 15, 2020 and the assistantship ended at that time. Ms. Halbert also had earned her Ph.D. by that time. Ms. Halbert thereafter was available for

and sought performance and teaching employment, but that search was hindered by program cancellations attributable to the COVID-19 pandemic. By the time of the July 28, 2020 appeal hearing, Ms. Halbert had accepted a part-time teaching position at Grandview University that was to start at the end of August 2020.

REASONING AND CONCLUSIONS OF LAW:

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 Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(5) and (26) provides:

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

(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

...

(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 evidence establishes that Ms. Halbert has been physically and mentally able to work since she established the original claim for benefits that was effective April 5, 2020.

Ms. Halbert cannot be deemed “available” for work or partially or temporarily unemployed during the period of April 5, 2020 through the benefit week that ended May 16, 2020, for which period the University of Iowa had work available for Ms. Halbert and for which period The University of Iowa continued to pay her stipend. The weekly wages from the stipend exceeded Ms. Halbert’s weekly unemployment insurance benefit amount plus \$15.00. Ms. Halbert is not eligible for benefits for the period of March 22, 2020 through the benefit week that ended May 16, 2020.

As of May 16, 2020, the University of Iowa employment was no longer been available and was no longer a factor in determining whether Ms. Halbert was available for work. Since that time, Ms. Halbert remained available for work and was engaged in a search for new employment in her degree field. Ms. Halbert is eligible for benefits for the period beginning May 17, 2020, provided she meets all other eligibility requirements. This matter will have to be remanded to the Benefits for Bureau for adjudication of the separation from the employment.

DECISION:

The June 15, 2020, reference 02, is modified in favor of the claimant/appellant as follows. The claimant has been physically and mentally able to work since she established the original claim for benefits that was effective April 5, 2020. The claimant did not meet the “availability” requirement and was not temporarily or partially unemployed within the meaning of the law during the period of April 5, 2020 through the benefit week that ended May 16, 2020. The claimant was available for work during the period beginning May 17, 2020 and is eligible for benefits for that period, provided she meets all other eligibility requirements.

This matter is remanded to the Benefits Bureau for adjudication of the employment separation.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits for the period of April 5, 2020 through May 16, 2020. 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. *If this decision becomes final or if you are not eligible for Pandemic Unemployment Assistance (PUA), you will have an overpayment of benefits that you will be required to repay.* Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, 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>.



James E. Timberland
Administrative Law Judge

September 9, 2020
Decision Dated and Mailed

jet/scn