

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MANDY K KAGEMANN
Claimant

APPEAL 21A-UI-14840-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CAMANCHE COMMUNITY SCHOOL
DISTRICT**
Employer

**OC: 04/18/21
Claimant: Appellant (4)**

Iowa Code § 96.1A(37) – Total, partial unemployment
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Admin. Code r. 871-24.23(26) – Eligibility – A&A – Part-time same hours, wages
Iowa Code § 96.7(2)a(2) – Charges – Same base period employment

STATEMENT OF THE CASE:

On June 29, 2021, Mandy Kagemann (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated June 21, 2021 (reference 01) that denied benefits as of April 18, 2021 based on a finding claimant was still employed for the same hours and wages.

A telephone hearing was held on August 25, 2021. The parties were properly notified of the hearing. Claimant participated personally. Camanche Community School District (employer/respondent) did not register a number for the hearing or participate. Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?
- III. Is the claimant still employed at the same hours and wages? 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 on August 2020. Claimant was employed part-time as a teacher associate. Claimant last performed work for employer when the school year ended on June 4, 2021. The contract of employment ended at that time.

Prior to working for employer claimant was working for Data Dimensions Corp. This was a full-time position. That position ended around the end of April 2020 due to the pandemic. Claimant

was able and available for full-time work and searching for full-time work for several months after that but was not able to secure full-time work.

In the claim year effective April 18, 2021, claimant filed a claim for benefits each week from the benefit week ending April 24, 2021 through the benefit week ending June 5, 2021. Her weekly benefit amount in that claim year is \$479.00.

Claimant reported her wages earned each week she filed. She reported earning wages in an amount greater than zero but less than her weekly benefit amount plus \$15.00 in each week filed in the claim year effective April 17, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated June 21, 2021 (reference 01) that denied benefits as of April 18, 2021 based on a finding claimant was still employed for the same hours and wages is MODIFIED in favor of appellant. She is eligible for benefits as set forth below. Employer's account is not subject to charge.

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 96.1A(37) 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 96.7(2)a(2) 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.

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....

In the claim year effective April 18, 2021, claimant filed a claim for benefits each week from the benefit week ending April 24, 2021 through the benefit week ending June 5, 2021. Her weekly benefit amount in that claim year is \$479.00. Claimant reported her wages earned each week she filed. She reported earning wages in an amount greater than zero but less than her weekly benefit amount plus \$15.00 in each week filed in the claim year effective April 17, 2021.

The administrative law judge finds claimant was partially unemployed and eligible for benefits in each week filed in the claim year effective April 17, 2021. This is because claimant was separated from her regular, full-time employer; earning less than her weekly benefit amount plus \$15.00; and able and available for work.

Because claimant was receiving the same employment from employer during the weeks filed and employer was a supplemental employer, it shall not be charged for benefits paid.

DECISION:

The decision dated June 21, 2021 (reference 01) that denied benefits as of April 18, 2021 based on a finding claimant was still employed for the same hours and wages is MODIFIED in favor of appellant. She is eligible for benefits as set forth above. Employer's account is not subject to charge.



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

August 30, 2021
Decision Dated and Mailed

abd/mh