

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JASON J KNAUSE**

Claimant

**APPEAL 20A-UI-04400-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FAREWAY STORES INC**

Employer

**OC: 03/29/20**

**Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
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 § 96.7(2)a(2) – Same Base Period Employment  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

**STATEMENT OF THE CASE:**

Claimant/appellant, Jason J. Knause, filed an appeal from the May 13, 2020, (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 9, 2020. Claimant participated. Employer participated through Theresa McLaughlin, vice president of human resources.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Is the claimant totally, partially, or temporarily unemployed?  
Is the claimant able to and available for work?  
Is the claimant still employed at the same hours and wages?  
Is the employer's account subject to charge?  
Is the claimant overpaid benefits?  
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has worked for employer since January 2017. Most recently, claimant works for employer as a full-time butcher/market place employee. Claimant worked March 31, 2020 before requesting a leave of absence due to COVID-19. Claimant lives with and cares for his senior parents, who have established health conditions. Claimant voluntarily returned to work on June 6, 2020 to work in the back, away from customers. He has resumed his leave of absence.

Despite being denied benefits after the initial fact-finding, the decision was made by Iowa Workforce Development to release funds of claimants while their claims were pending due to the backlog caused by the recent COVID 19 outbreak. Claimant was one of the individuals whose funds were released pending the initial decision. The administrative record shows, claimant filed for and received a total of \$1,959.00 in unemployment insurance benefits for the weeks between March 29, 2020 and May 9, 2020. The claimant also received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). Claimant received \$5,400.00 in federal benefits for the nine-week period ending May 9, 2020.

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

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.

In order to receive regular unemployment insurance benefits under Chapter 96 of the Iowa Code, a totally unemployed claimant must establish he or she is able to and available for work. Iowa Code § 96.4(3).

In this case, the claimant is totally unemployed. So the issue is whether he is able to and available for work.

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.

Here, employer has work available for claimant. However, claimant informed employer he was unable to work due to concerns of being exposed to COVID-19 and bringing it home to his family. Employer agreed to allow claimant time off for that reason. Claimant has not established he is able to and available for work.

Claimant is considered to be on a leave of absence due to March 31, 2020, and is not available for work. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits.

As claimant has received benefits to which he was not entitled, the next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code § 96.3(7) provides, in pertinent part:

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.

Since the decision disqualifying the claimant has been affirmed, the claimant was overpaid \$1,959.00 in unemployment insurance benefits.

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...

Here, the claimant is disqualified from receiving regular unemployment insurance (UI) benefits. Accordingly, this also disqualifies claimant from receiving Federal Pandemic Unemployment Compensation (FPUC). In addition to the regular UI benefits claimant received, he also received an additional \$5,400.00 in FPUC benefits for the nine-week period ending May 9, 2020. Claimant is required to repay those benefits.

Even though claimant is not eligible for regular unemployment insurance benefits under state law, he 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. Claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

**DECISION:**

The May 13, 2020, (reference 02) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective March 31, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time claimant is able to and available for work.

The claimant has been overpaid \$1,959.00 in regular unemployment insurance benefits. The claimant has also been overpaid \$5,400.00 in Federal Pandemic Unemployment Compensation. These overpayments must be repaid.



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Jennifer L. Beckman  
Administrative Law Judge  
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Des Moines, Iowa 50319-0209  
Fax 515-478-3528

June 23, 2020  
Decision Dated and Mailed

jlb/scn

*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>.