

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LYNNE ZELHOFER**  
Claimant

**CHRISBRO III INC**  
Employer

**APPEAL 20A-UI-09194-DB-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/12/20**  
**Claimant: Appellant (2R)**

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Iowa Code § 96.4(3) – Able to and Available for Work  
Iowa Code § 96.19(38)B – Partial Unemployment

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the July 24, 2020 (reference 01) unemployment insurance decision that found claimant was not eligible for unemployment benefits due to her working the same hours and receiving the same wages as in her initial contract of hire. The parties were properly notified of the hearing. A telephone hearing was held on September 18, 2020. The claimant, Lynne Zellhoefer, participated personally. The employer, Chrisbro III Inc., participated through witness Nichole Tveter. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**ISSUES:**

Is the claimant eligible for total or partial unemployment benefits?  
Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for this employer on March 3, 2020 as a part-time maintenance technician. On March 16, 2020 through April 16, 2020 the claimant was laid off due to lack of work. The employer laid off multiple employees as that location due to the COVID 19 pandemic. Claimant was able to and available for work if work would have been available for her.

Claimant had initially filed an original claim for unemployment insurance benefits effective April 14, 2020. That claim did not expire until April 12, 2020. Claimant filed an additional claim for benefits effective March 15, 2020 when she learned of the layoff. Claimant then reopened her claim for benefits effective March 29, 2020. Claimant filed weekly-continued claim for benefits while she was laid off for the week-ending April 4, 2020, April 11, 2020 and April 18, 2020. She filed a new original claim in a subsequent claim year effective April 12, 2020.

The issue of whether the employer will be charged for benefits paid due to the COVID 19 pandemic will be remanded to the Tax Bureau of Iowa Workforce Development for an initial determination on the allocation of charges.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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", subparagraph (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 § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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.

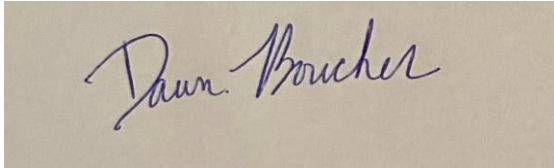
Claimant was totally unemployed from March 16, 2020 through April 16, 2020 due to the business needs of the employer. She was able to and available for work if work would have been available for her. As such, benefits are allowed effective March 15, 2020, provided the claimant is otherwise eligible.

**DECISION:**

The July 24, 2020 (reference 01) decision is reversed. Claimant was totally unemployed from March 16, 2020 through April 16, 2020 and established that she was able to and available for work. Benefits are allowed for the benefit week effective March 15, 2020, provided the claimant is otherwise eligible.

**REMAND:**

The chargeability issue delineated in the findings of fact is remanded to the Tax Bureau of Iowa Workforce Development for a determination of the allocation of charges.

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Dawn Boucher  
Administrative Law Judge

September 22, 2020  
Decision Dated and Mailed

db/scn