

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
Website: eab.iowa.gov**

EDNA BROUSSARD

Claimant

: **APPEAL NUMBER:** 23B-UI-06057

: **ALJ HEARING NUMBER:** 23A-UI-06057

:

and

:

EMPLOYMENT APPEAL BOARD

:

DECISION

HOMEGOODS INC

:

:

Employer

:

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1

DECISION

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**, and **REMANDED**:

The Board finds the following additional facts:

This Claimant worked only part-time for the Employer.

The records of the Department establish the following uncontested monetary record for this Claimant. The original claim date in this case is May 14, 2023. This means the Claimant's base period is calendar year 2022. The Claimant has the following wages in that period:

	Q1, 2022	Q2, 2022	Q3, 2022	Q4, 2022
Express Svc				\$621.90
Homegoods				\$2,107.42
100048 [Tx]	\$10,322.27	\$11,307.65	\$14,155.60	\$12,540.22

Total Wages: \$51,055.06 Credits (=1/3 wages): \$17,018.35

The Claimant's weekly benefit amount for zero dependents is the statewide maximum of \$551. Since sixteen weeks of \$551 is less than her wage credits of \$17,018.35 the Claimant's maximum benefit amount was \$8,816.00 (= \$551*16). As found by the Administrative Law Judge the Claimant worked part-time for Homegoods and quit that job on May 2, 2023. She filed for benefits shortly thereafter, and Iowa Workforce issued a disqualification decision on June 8, 2023.

The Board adds the following to the Reasoning and Conclusions of Law:

Workers who are disqualified for a separation from part-time supplemental work may be eligible to receive reduced unemployment insurance benefits, provided they have sufficient wage credits from other employers to be monetarily eligible and provided they are otherwise eligible. Iowa Code §96.5(12). In no event will such an employer's account be assessed for benefits paid to the claimant. Further, wage credits accrued during the employment (if any) shall not be considered in determining benefits for the claimant until the claimant has worked in an been paid for insured work equal to ten times the weekly benefit amount.

As we have found the Claimant's work with Homegoods was part-time work. Given these wage records we find it was supplemental. The quit disqualification, which we have today affirmed, should only disqualify Claimant from drawing on the wage credits earned at Homegoods.

The evidence in the record indicates that the Claimant may be separated from employer 100048 in Texas, or she may be on a leave of absence from that employer. A worker is generally not available for work while on a voluntary leave of absence. Also a job separation from a base period employer may be disqualifying. There is also the question of whether the Claimant is earnestly and actively seeking *full-time* work. We thus will remand the case on the issue of (1) was the separation from the Texas employer disqualifying? (2) Is the Claimant available for work? and (3) is the Claimant earnestly and actively seeking work. We note that issues two and three are only relevant *after* the benefit week ending June 17, 2023. Until BWE 6/17/23 the Claimant was not able and available for work as found in case 23A-UI-06058 which we today affirm.

Our calculations indicate that the Claimant remains monetarily eligible if the Homegoods wages are excluded from her base period. In fact, the deletion of those credits makes no difference at all. Specifically, a Claimant who has no dependents receives 1/23 of the high quarter wages as a weekly benefit, subject to the applicable cap. In this case the cap for one-dependent claimants filing in the second quarter of 2023 is \$551 per week. With the Homegoods credits the high quarter is Quarter Four of 2022, with wages of \$15,269.54. One twenty-third of this is \$663.89 and so the Claimant is limited to the \$551 per week cap as her weekly benefit amount. Her maximum benefit amount is the lesser of 16 weeks of benefits, or 1/3 of her wages. With the Homegood credits 1/3 of her wages is \$17,018.35. This exceeds 16 weeks at \$551 per week, *i.e.*, \$8,816. So with Homegoods the weekly benefit amount is \$551 and the maximum benefit amount is \$8,816.

Without Homegoods, the high quarter is Quarter Three of 2022, with wages of \$14,155.60. One twenty-third of this is \$615.46 and so the Claimant is once again limited to the \$551 per week cap as her weekly benefit amount. Again, her maximum benefit amount is the lesser of 16 weeks of benefits, or 1/3 of her wages. Without the Homegood wages 1/3 of her wages is \$16,315.88. This **still** exceeds 16 weeks at \$551 per week, *i.e.*, \$8,816. So without Homegoods the weekly benefit amount is **still** \$551 and the maximum benefit amount is **still** \$8,816.

The effect of deleting the Homegoods wage credits is that Homegoods will not be charged for any benefits paid to the Claimant. The Claimant has no effect on her benefits at all based on this disqualification.

The evidence in the record indicates that the Claimant may be separated from employer 100048 in Texas, or she may be on a leave of absence from that employer. A worker is generally not available for work while on a voluntary leave of absence. Also a job separation from a base period employer may be disqualifying. There is also the question of whether the Claimant is earnestly and actively seeking *full-time* work. We thus will remand the case on the issues of (1) was the separation from the Texas employer disqualifying? (2) Is the Claimant available for work or on a voluntary leave of absence? and (3) is the Claimant earnestly and actively seeking work? We note that issues two and three are only relevant *after* the benefit week ending June 17, 2023. Until 6/18/23 the Claimant was not able and available for work as found in case 23A-UI-06058 which we today affirm.

The decision of the Administrative Law Judge is **MODIFIED IN THE CLAIMANT'S FAVOR**. The Claimant is allowed benefits to the extent that she is eligible based on credits earned with other employers, and only denied the ability to draw on credits earned with Homegoods. She must, of course, be otherwise eligible and have no disqualification or claim lock resulting from issues unrelated to the separation from Homegoods.

Accordingly, the Board also **REMANDS** this matter to the Iowa Workforce Development, Benefits Bureau to delete Homegoods, (#543680) from this claim, but to otherwise unlock the claim. We further remand this matter to the Benefits Bureau to address whether the Claimant (1) is disqualified based on the nature of any the separation from the Texas employer 100048? (2) Is the Claimant available for work or on a voluntary leave of absence from employer 100048? and (3) is the Claimant earnestly and actively seeking work following June 17, 2023?

The Claimant should continue to file weekly claims in the meanwhile, although Claimant should note that if the remand results in a subsequent finding of disqualification or ineligibility, this may in turn result in an overpayment.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn