

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STEVEN W LARUE
Claimant

RIVER CITY WINDOW AND DOOR LLC
Employer

APPEAL 20A-UI-07641-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Respondent (2)

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
PL 116-136, Sec. 2104(b) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

On July 1, 2020, the employer filed an appeal from the June 29, 2020, (reference 01) unemployment insurance decision that allowed benefits and relieved employer of benefit charges. The parties were properly notified about the hearing. A telephone hearing was held on August 12, 2020. Claimant did not register for the hearing and did not participate. Employer participated through owner Brian Purscell. Employer's Exhibit 1 was received.

ISSUES:

Is the claimant eligible to receive partial benefits?
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?
Was the claimant overpaid unemployment insurance benefits?
Is the claimant eligible for Federal Pandemic Unemployment Compensation (FPUC) benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has been working for employer as a full-time driver since December 2019.

In March 2020, the United States declared a public health emergency due to the COVID 19 pandemic.

Employer considers full-time employment to be 32 hours and above. While claimant's weekly hours may have fallen slightly after the pandemic began, he always worked at least 32 hours each week.

Claimant has not filed any weekly claims or received any unemployment insurance benefits since filing this claim.

Claimant's weekly benefit amount is \$462.00. Claimant has been paid more than \$15.00 above his weekly benefit amount each week since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not unemployed effective April 5, 2020.

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.

Since filing the claim, claimant has not worked less than a regular full-time week and has not earned less than \$15.00 above his weekly benefit amount. Therefore, claimant is not considered to be unemployed and is not eligible for unemployment insurance benefits.

Since claimant is not eligible for regular unemployment insurance benefits, he is not eligible for Federal Pandemic Unemployment Compensation. See PL 116-136, Sec. 2104(b).

Since claimant has not received any unemployment insurance benefits, he has not been overpaid.

DECISION:

The June 29, 2020, (reference 01) unemployment insurance decision is reversed. Claimant is not unemployed and is not eligible for benefits.



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

August 19, 2020
Decision Dated and Mailed

cal/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 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>.