

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WILLIAM DEBLOIS
Claimant

THE UNIVERSITY OF IOWA
Employer

APPEAL 21A-UI-06713-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/17/20
Claimant: Appellant (1R)

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

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the February 12, 2021 (reference 01) unemployment insurance decision that found claimant was not eligible for unemployment benefits effective May 17, 2020 through May 30, 2020 due to the claimant working to such extent that removed him from the labor market. The parties were properly notified of the hearing. A telephone hearing was held on May 12, 2021. The claimant participated personally. The employer participated through witness Jessica Wade. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUES:

Was the claimant able to and available for work?
Was the claimant totally, partially, or temporarily unemployed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed full-time for this employer as a cook. He began his employment on October 1, 2018 and continues to be employed to date. When the COVID-19 pandemic occurred in May of 2020, the claimant was notified that he would be on an unpaid layoff. He filed his original claim for unemployment insurance benefits effective May 17, 2020; however, his unpaid layoff did not begin until June 4, 2020 and ended on July 18, 2020. He had not been physically working during the pandemic but was still paid his full-time wages through the end of May, 2020. From June 1, 2, and 3, 2020 the claimant earned paid comp time.

Claimant's administrative records establish that his weekly benefit amount was \$346.00. Claimant reported earnings of \$608.00 for the week-ending May 23, 2020 and \$608.00 for the week-ending May 30, 2020 when he filed his weekly-continued claims for benefits. Ms. Wade testified that claimant's gross earnings for those two weeks were \$559.87. Claimant reported gross earnings for the week-ending June 6, 2020 of \$122.00. Ms. Wade testified that the claimant's gross earnings for the week-ending June 6, 2020 were \$289.80 (20.7 hours of comp time at \$14.00 per hour). The matter of whether the claimant properly reported wages/comp

time earned from May 31, 2020 through June 6, 2020 shall be remanded to the Benefits Bureau for an initial investigation and determination.

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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 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.

(emphasis added).

Iowa Admin. Code r. 871-24.18 provides:

Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deductions shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code § 96.3, 96.4 and 96.19(38).

In this case, the claimant earned wages in excess of his weekly-benefit amount, plus fifteen dollars for the week-ending May 23, 2020 and May 30, 2020. Because the claimant has earned excessive wages for those two weeks, he cannot be considered partially unemployed. See Iowa Code 96.19(38) and Iowa Admin. Code r. 871-24.18. For the benefit week-ending June 6, 2020, claimant improperly reported his gross wages/comp time earned. As such, he may be eligible for partial unemployment that week-ending June 6, 2020; however, the matter must be remanded for a wage investigation. Effective June 7, 2020 through July 18, 2020, the claimant was totally unemployed and benefits are allowed, provided the claimant remained otherwise eligible.

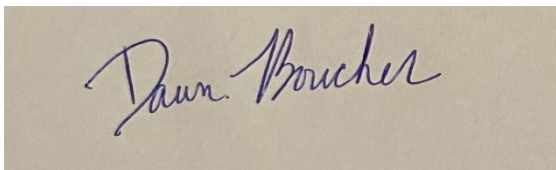
DECISION:

The February 12, 2021 (reference 01) unemployment insurance decision is affirmed pending the remanded issue. The claimant earned excessive earnings for the week-ending May 23, 2020 and the week-ending May 30, 2020 and was not totally, partially, or temporarily unemployed during those two weeks. Benefits are denied from May 17, 2020 through May 30, 2020. For the week-ending June 6, 2020, the claimant may have been partially unemployed. Benefits are allowed for the week-ending June 6, 2020, subject to the remanded wage investigation, and provided the claimant was otherwise eligible.

Beginning June 7, 2020 through July 18, 2020, the claimant was totally unemployed. Benefits are allowed from June 7, 2020 through July 18, 2020, provided the claimant was otherwise eligible.

REMAND:

The issue of whether the claimant properly reported gross wages earned and comp time during the week-ending June 6, 2020 is remanded to the Benefits Bureau for an initial investigation and determination.



Dawn Boucher
Administrative Law Judge

May 18, 2021
Decision Dated and Mailed

db/kmj

Note to Claimant

- This decision may determine you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law and 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.
- If you do not qualify for regular unemployment insurance benefits funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance (“PUA”) section of the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”) that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**
For additional information on how to apply for PUA go to:
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to “Submit Proof Here.” You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.