

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

WILLIAM J BELLINGS
Claimant

CUSTOM-PAK INC –LP2
Employer

APPEAL NO. 20A-UI-10284-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (5)

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

William Bellings filed a timely appeal from the August 20, 2020, reference 04, decision that denied benefits for the week that ended April 18, 2020, based on the deputy's conclusion that Mr. Bellings worked enough hours that week to be considered employed and did not meet the "availability" requirement for unemployment insurance benefits. After due notice was issued, a hearing was held on October 9, 2020. Mr. Bellings participated. Vicki Rixen represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Numbers 20A-UI-10283-JTT and 20A-UI-10285-JTT. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUES:

Whether the claimant was able to work and available for work during the week that ended April 18, 2020.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: William Bellings is employed by Custom-Pak, Inc. as a full-time Second Shift Process Development Lead. Mr. Bellings' regular work hours are 3:00 p.m. to 11:00 p.m., Monday through Friday. His wage is \$24.00 per hour, including a \$1.00 per hour shift differential. After Mr. Bellings completed his shift on Friday, March 27, 2020, he did not feel well. Mr. Bellings had a cough and a fever of 102 degrees. Mr. Bellings had a telemedicine medical appointment during which the provider advised him to quarantine for 14 days out of concern Mr. Bellings might have COVID-19. On March 30, 2020, Mr. Bellings contacted the workplace and spoke with Vicki Rixen, Human Resources Coordinator. Mr. Bellings told Ms. Rixen about his health condition and the instructions he had received to quarantine for 14 days. The employer approved the quarantine leave period. The employer continued to have full-time work available for Mr. Bellings during this time when Mr. Bellings was off work due to illness.

Mr. Bellings was scheduled to return to work on Thursday, April 9, 2020. However, on that day the employer learned of another employee from the second shift testing positive for COVID-19. Ms. Rixen notified second shift employees, including Mr. Bellings, not to come to work that day.

The next day, April 10, 2020, was a scheduled paid work holiday, Good Friday. In her email, Ms. Rixen instructed Mr. Bellings to report for work on Monday, April 13, 2020. The employer paid Mr. Bellings \$192.00 in holiday pay for the week that ended April 11, 2020.

Mr. Bellings reported for work on Monday, April 13, 2020. He completed his shift on that day and on April 14 2020. Mr. Bellings worked 16 hours in total during the two days, for which he earned \$384.00. Mr. Bellings then went off work again due to illness. Mr. Bellings contacted his primary care physician and was tested for COVID-19. Though Mr. Bellings' COVID-19 test was negative, Mr. Bellings' doctor advised him to stay off work for 14 days. Mr. Bellings notified the employer of his need to be off work due to illness. The employer again approved the leave. The employer continued to have full-time work available. Mr. Bellings returned to the full-time employment on Monday, April 27, 2020.

Mr. Bellings established an original claim for benefits that was effective March 29, 2020. Iowa Workforce Development set his weekly benefit amount at \$456.00. Custom-Pak is not a base period employer in connection with the claim. Mr. Bellings made weekly claims for each of the weeks between March 29, 2020 and April 25, 2020 and received regular state benefits and FPUC benefits for each week. Mr. Bellings discontinued his claim for benefits following the week that ended April 25, 2020, due to his return to the full-time employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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", unnumbered paragraph (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 Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market.

Iowa Admin. Code r. 871-24.23 provides, in relevant part, as follows:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

...

(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.

...

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

...

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

...

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

This case concerns Mr. Bellings' ability to perform work and availability for work during the week that ended April 18, 2020. During that week, Mr. Bellings worked just two days before going off work for the remainder of the week due to illness. Mr. Bellings was unable to work for the majority of the week. Mr. Bellings requested and the employer approved a brief leave of absence that began on Wednesday, April 15, 2020 and that extended through the end of the week. Due to his illness and the leave, Mr. Bellings did not meet the availability requirement during the week that ended April 18, 2020 and is not eligible for benefits for that week.

Even though claimant is not eligible for regular unemployment insurance benefits under state law, the claimant 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.

DECISION:

The August 20, 2020, reference 04, decision is modified only to reflect the correct able and available disqualification basis. The claimant did not meet the able and available requirements during the week that ended April 18, 2020 and is not eligible for benefits for that week.



James E. Timberland
Administrative Law Judge

October 13, 2020
Decision Dated and Mailed

jet/sam

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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 under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you have received.**