

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JENNIFER L GRAHAM
Claimant

APPEAL 20A-UI-12766-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BOONE COMMUNITY SCHOOL DIST
Employer

OC: 06/14/20
Claimant: Respondent (1/R)

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
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 § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.3-7 – Overpayment
PL 116-136 Section 2104 (B) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Boone Community School Dist (employer) appealed a representative's August 26, 2020, decision (reference 01) that concluded Jennifer Graham (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 14, 2020. The claimant participated personally. The employer participated by Mitchell Lewis, Director of Business Services.

The employer offered and Exhibit One was received into evidence. The administrative law judge took official notice of the administrative file.

ISSUES:

The issue is whether the claimant is eligible for total or partial unemployment benefits, still employed at the same hours and wages, whether the claimant is able and available for work and/or whether the employer's account is subject to charge.

The issue is also whether the claimant was overpaid benefits and whether the claimant is eligible for Federal Pandemic Unemployment Compensation.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 14, 2011. She is currently working as a full-time on site supervisor for the Boone Extended Preschool Program. The claimant generally works forty or more hours per week and earns \$14.94 per hour. She worked all hours the employer asked her to work.

The claimant filed for unemployment insurance benefits with an effective date of June 14, 2020. Her weekly benefit amount (WBA) was determined to be \$360.00. The claimant received benefits from June 14, 2020, to the week ending August 15, 2020. This is a total of \$2,779.00 in state unemployment insurance benefits after June 14, 2020. She also received \$3,000.00 in Federal Pandemic Unemployment Compensation for the five-week period ending July 25, 2020.

For the week ending June 20, 2020, the claimant earned \$545.00. She filed for unemployment insurance benefits and reported \$225.00 in wages. She received \$225.00 in state unemployment insurance benefits and \$600.00 in Federal Pandemic Unemployment Compensation. For the week ending June 27, 2020, the claimant earned \$470.00. She filed for unemployment insurance benefits and reported \$448.00 in wages. She received \$00.00 in state unemployment insurance benefits and \$00.00 in Federal Pandemic Unemployment Compensation. For the week ending July 4, 2020, the claimant earned \$359.00. She filed for unemployment insurance benefits and reported \$269.00 in wages. She received \$181.00 in state unemployment insurance benefits and \$600.00 in Federal Pandemic Unemployment Compensation.

For the two-weeks ending July 18, 2020, and the week ending August 22, 2020, the claimant earned \$00.00. She filed for unemployment insurance benefits and reported \$00.00 in wages each week. She received \$360.00 in state unemployment insurance benefits and \$600.00 in Federal Pandemic Unemployment Compensation each week.

For the week ending July 25, 2020, the claimant earned \$154.00. She filed for unemployment insurance benefits and reported \$149.00 in wages. She received \$301.00 in state unemployment insurance benefits and \$600.00 in Federal Pandemic Unemployment Compensation. For the week ending August 1, 2020, the claimant earned \$150.00. She filed for unemployment insurance benefits and reported \$149.00 in wages. She received \$301.00 in state unemployment insurance benefits and \$600.00 in Federal Pandemic Unemployment Compensation.

For the week ending August 8, 2020, the claimant earned \$120.00. She filed for unemployment insurance benefits and reported \$119.00 in wages. She received \$331.00 in state unemployment insurance benefits and \$600.00 in Federal Pandemic Unemployment Compensation. For the week ending August 15, 2020, the claimant earned \$110.00. She filed for unemployment insurance benefits and reported \$89.00 in wages. She received \$360.00 in state unemployment insurance benefits and \$600.00 in Federal Pandemic Unemployment Compensation.

REASONING AND CONCLUSIONS OF LAW:

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.

If a worker is not employed for a period, not to exceed four consecutive weeks, and that unemployment is due to a shutdown or lack of work, the worker is deemed to be temporarily unemployed. The claimant was temporarily unemployed for the weeks ending July 11, 18, and August 22, 2020. The employer had no work for her because the program was closed. The claimant was willing and able to work during that time. The claimant is eligible for unemployment insurance benefits for the weeks ending July 11, 18, and August 22, 2020.

For the two-week period ending June 27, 2020, the claimant was employed and earning wages. She cannot be considered totally or temporarily unemployed. The issue becomes whether she was partially unemployed. For a worker to be partially unemployed, she must be earning less than her WBA plus \$15.00. Each week the claimant earned wages greater than \$375.00, her WBA plus \$15.00. The claimant was not monetarily eligible for unemployment insurance benefits for the two-week period ending June 27, 2020.

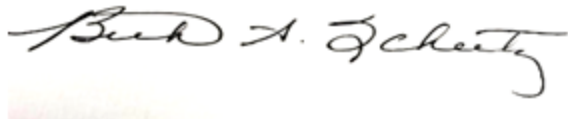
For the benefit week ending July 4, 2020, and the four-weeks ending August 15, 2020, the claimant was working for the employer and earning less than her WBA plus \$15.00. The claimant was partially unemployed for those five weeks and is eligible to receive unemployment insurance benefits.

The issue of correctly reporting the claimant's income and determining whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

DECISION:

The August 26, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant is eligible to receive unemployment insurance benefits as of June 14, 2020.

The issue of correctly reporting the claimant's income and determining whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.



Beth A. Scheetz
Administrative Law Judge
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December 23, 2020
Decision Dated and Mailed

bas/mh