

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ASHLEA A KOTZ
Claimant

DONALDSON COMPANY INC
Employer

APPEAL 20A-UI-05619-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The claimant/appellant, Ashlea A. Kotz, filed an appeal from the June 5, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 13, 2020. The claimant participated personally. The employer, Donaldson Company Inc., participated through Aaron Ross, human resources manager.

The administrative law judge took official notice of the administrative records. Claimant Exhibit A and Employer Exhibit 1 were admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant able to work and available for work effective June 5, 2020?
Is the claimant overpaid benefits?
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began work in October 2018 and works for this employer on a full-time basis in production assembly.

The claimant established her claim for unemployment insurance benefits effective April 5, 2020. The claimant requested and was approved for a personal leave of absence from April 6 – May 15, 2020 at her doctor’s advice (Employer Exhibit 1). The claimant is considered high-risk if exposed to COVID-19 (Claimant Exhibit A). Had the claimant not taken the leave of absence, there was full-time work available to her during this period.

The claimant returned and worked May 16-24, 2020.

The claimant was laid off due to a lack of work from May 25 through June 12, 2020.

She returned to work effective June 13, 2020 and worked until July 5, 2020.

She was laid off from work due to a lack of work July 6-10, 2020.

She returned to work on July 13, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge modifies the initial decision in favor of the claimant/appellant.

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.

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 96.1A, subsection 38, paragraph "b", subparagraph (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. 871-24.23(10) provides:

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

(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.

For the period of April 6, 2020 through May 15, 2020:

Here, employer had work available for claimant. However, claimant informed employer she was unable to work due to being high risk if exposed to COVID-19. Employer agreed to allow claimant time off for that reason. Claimant was considered to be on a leave of absence and not available for work. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits for the period of April 6, 2020 through May 15, 2020.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, during this period, she 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. The claimant must apply for PUA, as noted in the instructions provided in the “Note to Claimant” below.

For the period of May 16 through May 24, 2020:

Iowa Admin. Code r. 871-24.23(23) provides:

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

(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.

Claimant is ineligible for benefits for May 16-24, 2020 due to full-time employment.

For the period of May 25, 2020 through June 12, 2020:

The claimant was totally unemployed for this period, as she was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

For the period of June 13-July 5, 2020:

Because the claimant worked full-time, she was not available for work, and therefore denied benefits during this period. (See Iowa Admin. Code r. 871-24.23(23), cited above).

For the period July 6-10, 2020:

The claimant was totally unemployed for this period, as she was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

Effective July 13, 2020, the claimant has returned to work and is not eligible for unemployment insurance benefits.

Claimant's Eligibility for Federal Pandemic Unemployment Compensation:
PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

At this time, there has been no overpayment of benefits. For any weeks that the claimant is disqualified from receiving regular unemployment insurance (UI) benefits, she is also disqualified from receiving Federal Pandemic Unemployment Compensation (FPUC). Conversely, for any weeks listed above that she is eligible for benefits, she would be eligible for FPUC also.

DECISION:

The unemployment insurance decision dated June 5, 2020, (reference 01) is modified in favor of the claimant/appellant.

For the periods of April 6 through May 24, 2020, and June 13 through July 5, 2020: Regular unemployment insurance benefits funded by the state of Iowa are denied until such time the claimant is able to and available for work.

For the periods of May 25, 2020 through June 12, 2020 and July 6 through July 10, 2020, the claimant was totally unemployed due to a lack of work. The claimant is allowed benefits, provided she meets all other requirements.

Effective July 13, 2020, the claimant has returned to work and is not eligible.

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits for some of the weeks you applied for 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.
- If you do not qualify for regular unemployment insurance benefits due to disqualifying separations 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.** More information about how to apply for PUA is available online at:
www.iowaworkforcedevelopment.gov/pua-information

If you have applied and have been approved for PUA benefits, this decision will not negatively affect your entitlement to PUA benefits.



Jennifer L. Beckman
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July 21, 2020
Decision Dated and Mailed

jlb/scn