

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAMRA COOK
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 21A-DUA-01522-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/21/21
Claimant: Appellant (1)**

PL 116-136, Sec. 2102 – Federal Pandemic Unemployment Assistance

STATEMENT OF THE CASE:

Claimant filed an appeal from the Iowa Workforce Development decision dated April 30, 2021 that determined claimant was not eligible for Pandemic Unemployment Assistance (PUA) benefits. Claimant was properly notified of the hearing. A telephone hearing was held on July 20, 2021, at 2:00 p.m. Claimant participated in the hearing. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUE:

Whether claimant is eligible for Pandemic Unemployment Assistance.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Claimant filed an initial claim for unemployment insurance (UI) benefits effective February 21, 2021. Claimant is not eligible for UI benefits. Claimant applied for Pandemic Unemployment Assistance (PUA).

Claimant was employed as a full-time Supervisor Assistant with Midwest Janitorial Service from March 17, 2020 until her employment ended on November 14, 2020. Claimant began her employment at the outset of Covid-19 and expected to work 30 – 40 hours per week. Claimant's hourly rate of pay was \$13.29. Claimant's gross wages from Midwest Janitorial Service were \$4,716.00 in the second quarter of 2020; \$5,273.00 in the third quarter of 2020; and \$2,633.00 in the fourth quarter of 2020. Claimant quit due to the cost of using her personal vehicle for work-related travel.

Claimant has not experienced Covid-19 symptoms. No one in claimant's household has been diagnosed with Covid-19. Claimant has not provided care for a family member who was diagnosed with Covid-19. Claimant has not been advised to quarantine by a health care professional. Claimant has not been scheduled to commence employment and had that employment cancelled due to Covid-19. Claimant does not require work-related childcare. Claimant's employer has not been closed due to Covid-19.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136, Sec. 2102 provides for unemployment benefit assistance to any covered individual for any weeks beginning on or after January 27, 2020 and ending on or before December 31, 2020, during which the individual is unemployed, partially unemployed, or unable to work due to COVID-19.

The Continued Assistance for Unemployed Workers Act of 2020 (enacted December 27, 2020) and American Rescue Act of 2021 (enacted March 11, 2021) extended PUA benefits for weeks of unemployment to September 6, 2021.

On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

The issue to be determined here is whether claimant is a “covered individual” who is eligible to receive benefits within the meaning of applicable law.

Section 2102 of the CARES Act describes a covered individual as follows:

(3) COVERED INDIVIDUAL.—The term “covered individual”—

(A) means an individual who—

(i) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107; and

(ii) provides self-certification that the individual—

(I) is otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because—

(aa) the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

(bb) a member of the individual's household has been diagnosed with COVID-19;

(cc) the individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;

(dd) a child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID–19 public health emergency and such school or facility care is required for the individual to work;

(ee) the individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID–19 public health emergency;

(ff) the individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID–19;

(gg) the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID–19 public health emergency;

(hh) the individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID–19;

(ii) the individual has to quit his or her job as a direct result of COVID–19;

(jj) the individual's place of employment is closed as a direct result of the COVID–19 public health emergency; or

(kk) the individual meets any additional criteria established by the Secretary for unemployment assistance under this section; or

(ll) is self-employed, is seeking part-time employment, does not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107 and meets the requirements of subclause (l); and

(B) does not include—

(i) an individual who has the ability to telework with pay; or

(ii) an individual who is receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets a qualification described in items (aa) through (kk) of subparagraph (A)(i)(l).

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728

N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find the claimant's testimony that she quit her employment because Midwest Janitorial Service reduced her hours steadily during her employment from 30 – 40 hours per week down to 15 hours per week as a direct result of Covid-19 to lack credibility. Claimant's testimony is not consistent with the administrative record of wages reported by Midwest Janitorial Service, which claimant did not contest by appealing her monetary determination. Based upon claimant's wages and hourly rate of pay, she worked an average of 27 hour per week during the second quarter of 2020, 30 hours per week during the third quarter of 2020 and 30 hours per week during the fourth quarter of 2020 (for six to seven weeks of employment). I find claimant's testimony that she quit due to the cost of using her personal vehicle for work-related travel to be more credible than claimant's purported reason for quitting.

Here, claimant did not resign as a direct result of Covid-19. Claimant does not meet any of the eligibility requirements outlined herein. Accordingly, claimant does not qualify for PUA benefits.

DECISION:

The Iowa Workforce Development decision dated April 30, 2021 that determined claimant was not eligible for Pandemic Unemployment Assistance (PUA) benefits is affirmed.



Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
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Fax (515)478-3528

July 28, 2021
Decision Dated and Mailed