

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AWADIA E AHMEDALHASAN
Claimant

APPEAL 20A-UI-04445-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARRIOTT HOTEL SERVICES INC
Employer

OC: 03/29/20
Claimant: Appellant (2R)

Iowa Code § 96.5(1) – Voluntary Quitting – Layoff Due to Lack of Work
Iowa Admin. Code r. 871-24.1(113) – Definitions – Separations
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The claimant/appellant, Awadia E. Ahmedalhasan, filed an appeal from the May 18, 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 June 10, 2020. The claimant participated personally with an Arabic interpreter from CTS Language Link. Ahmed Abdalgader also testified for the claimant. The employer, Marriott Hotel Services Inc., did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records. Claimant Exhibit A was 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 laid off due to a lack of work?
Has the claimant been overpaid any unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?
Can any charges to the employer’s account be waived?
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 was employed part-time in banquets and the kitchen. She last worked on February 29, 2020. From February 29-March 31, 2020, the claimant was on an approved vacation to study for her naturalization test. The vacation had been approved verbally by human resources and management. She made the request with Mr. Abdalgader’s assistance and in his presence.

At the end of the vacation, the claimant tried to contact the employer to return to work. Due to COVID-19, most employees have been laid off or directed to accept a payout to resign and told not to apply for unemployment. Mr. Abdalgader has returned to work but stated there is no work right now for the claimant.

Despite being denied benefits after the initial fact-finding, the decision was made by Iowa Workforce Development to release funds of claimants while their claims were pending due to the backlog caused by the recent COVID 19 outbreak. Claimant was one of the individuals whose funds were released pending the initial decision. The administrative record shows, claimant filed for and received a total of \$486.00 in unemployment insurance benefits for the weeks between March 29, 2020 and May 9, 2020.

The claimant also received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). Claimant received \$3,600.00 in federal benefits for the six- week period ending May 9, 2020.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Admin. Code r. 871-24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The undisputed evidence is the claimant has been laid off due to a lack of work related to COVID-19. She was laid off effective April 1, 2020, which coincided with her return to work after a month long vacation. The claimant's separation is non-disqualifying and she is therefore allowed benefits, provided she is otherwise eligible.

The issue of whether the employer will be charged for benefits paid due to the COVID 19 pandemic will be remanded to the Tax Bureau of Iowa Workforce Development for an initial determination on the allocation of charges.

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...

Here, the claimant is eligible for regular unemployment insurance (UI) benefits. Accordingly, this also qualifies claimant for Federal Pandemic Unemployment Compensation (FPUC).

DECISION:

The May 18, 2020 (reference 01) initial decision is reversed. The claimant is laid off due to a lack of work. The claimant's separation is non-disqualifying and she is therefore allowed benefits, provided she is otherwise eligible. There is no overpayment of benefits and the claimant is eligible for FPUC.

REMAND:

The issue of whether the employer will be charged for benefits paid due to the COVID 19 pandemic will be remanded to the Tax Bureau of Iowa Workforce Development for an initial determination on the allocation of charges.



Jennifer L. Beckman
Administrative Law Judge
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June 24, 2020
Decision Dated and Mailed

jlb/mh