

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESSE J ASHFORD
Claimant

THE UNIVERSITY OF IOWA
Employer

APPEAL 21A-UI-01085-S1-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/11/20
Claimant: Appellant (1/R)

Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

Jesse Ashford (claimant) appealed a representative's December 10, 2020, decision (reference 02) that denied benefits as of October 11, 2020, based on his continued employment with The University of Iowa (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 17, 2021. The claimant participated personally. The employer participated by Jessica Wade, Human Resources Business Analyst. 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.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant started working for the employer on October 31, 2019. He is currently working as a full-time custodian one. The employer furloughed the claimant for the week ending October 10, 2020. He returned to work on October 11, 2020.

The claimant filed for unemployment insurance benefits with an effective date of October 4, 2020. His weekly benefit amount was determined to be \$318.00. He requested help in filing a claim for the week ending October 10, 2020. A workforce advisor told the claimant the claim had been filed. Instead, the weekly claim was filed for the week ending October 17, 2020. The claimant received no state unemployment insurance benefits or Federal Pandemic Unemployment Compensation after October 4, 2020. The workforce advisor backdated the claim but did not show a weekly report for the week ending October 10, 2020.

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.

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 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

After October 11, 2020, the claimant was at all times employed and earning wages from the employer. He cannot be considered totally, partially, or temporarily unemployed. Benefits are denied as of October 11, 2020.

The administrative law judge understands that the claimant intended to file a claim for the week ending October 10, 2020. The administrative law judge lacks jurisdiction to adjudicate the issues surrounding the claimant's eligibility for benefits for the week ending October 10, 2020, because the decision before her does not address that week.

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

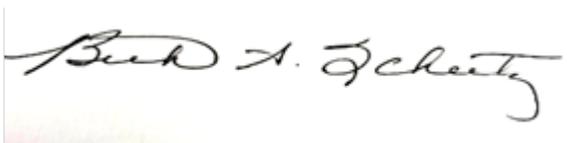
The issue of whether the claimant is eligible for benefits for the week ending October 10, 2020, is remanded for determination. .

DECISION:

The December 10, 2020, (reference 02) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective October 11, 2020.

The issue of whether the claimant is eligible for benefits for the week ending October 10, 2020, is remanded for determination. .

Note to Claimant: This decision determines you are not eligible for regular 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



Beth A. Scheetz
Administrative Law Judge
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March 22, 2021
Decision Dated and Mailed

bas/scn