

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KORRI CLARKWILT**  
Claimant

**APPEAL 21A-UI-08622-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NORTWALK COMMUNITY SCHOOL  
DISTRICT**  
Employer

**OC: 03/22/20**  
**Claimant: Appellant (1)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions  
Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment  
Iowa Code § 96.7(2)a(2) – Employer Chargeability

**STATEMENT OF THE CASE:**

The claimant/appellant, Korri Clarkwilt, filed an appeal from the March 22, 2021 (reference 07) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits effective August 16, 2020.

A first telephone hearing (with seventeen companion cases) was scheduled for June 14, 2021 with Administrative Law Judge, Duane Golden. On June 10, 2021, claimant’s counsel, Justin Vondrak, requested a postponement due to a trial conflict. The request was granted and the hearings were reset for July 15, 2021. Due to an inadvertent error, Mr. Vondrak was excluded from the notices of hearings and was not mailed copies for the new hearings. The hearing was postponed to August 16, 2021 by Administrative Law Judge, Jennifer L. Beckman, to allow proper notice to counsel.

After proper notice, a telephone hearing was conducted on August 16, 2021. The following appeals were consolidated for the telephone hearing: 21A-UI-08612-JC-T, 21A-UI-08617-JC-T, 21A-UI-08622-JC-T, 21A-UI-08634-JC-T, 21A-UI-08639-JC-T, 21A-UI-08613-JC-T, 21A-UI-08615-JC-T, 21A-UI-08619-JC-T, 21A-UI-08627-JC-T, 21A-UI-08631-JC-T, 21A-UI-08638-JC-T, 21A-UI-08640-JC-T, 21A-UI-08643-JC-T, 21A-UI-08644-JC-T, 21A-UI-08646-JC-T, 21A-UI-08648-JC-T, and 21A-UI-08645-JC-T and 21A-UI-08649-JC-T.

The claimant, Korri Clarkwilt participated personally and was represented by Justin Vondrak, attorney at law. The Investigations and Recovery Unit of IWD was represented by Jeffrey Konscol, attorney at law. Daniel Noonan testified. Tiffany Patterson participated for the employer. Darrin Hamilton, administrative law judge, attended as an observer.

The administrative law judge took official notice of the administrative records, including wage history. Department Exhibits 1-22 were admitted into evidence. 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:**

Was the claimant able to and available for work effective August 16, 2020?  
Was the claimant totally, partially, or temporarily unemployed?

## **FINDINGS OF FACT:**

Claimant began employment for the Norwalk Community School District in 1993. She was a full-time health teacher until June 30, 2021 when she retired. Claimant's employment with the school district ran concurrent with the academic school year. She did not work over customary breaks (spring, fall, winter) or over the summer.

Claimant also had part-time employment with Lifetime Fitness as its tennis coordinator. Claimant began the employment in 2014, and is still employed there. She usually works 20 hours per week, earning \$16.00 per hour or \$320.00 per week.

Claimant established her claim for unemployment insurance benefits with an effective date of March 22, 2020 and a second claim effective March 21, 2021. During this time, there was no change in the agreement in hire or wages paid by her full-time employer, Norwalk Community School District. Even though schools were impacted by the COVID-19 pandemic and closed due to Governor Reynolds' emergency proclamation, claimant was paid through the academic school year, as though she was still performing work under the same hours and wages for which she was hired.

Claimant continued to file claims over the summer of 2020, even though the school year ended June 6, 2020 and claimant would not customarily work over the summer for the school district. The employer notified claimant that it expected to recall her for the coming 2020-21 school year in a similar capacity as she had been employed for the prior year (Department Exhibit 2-17) and claimant did return to employment for the 2020-2021 school year effective August 16, 2020. Claimant continued to file weekly continued claims while she worked full-time for the school district in fall 2020, and through the winter break, which ran December 27, 2020 through January 2, 2021. Claimant would not customarily work during winter break, and returned to work with the school district full-time for the spring 2021 term effective January 3, 2021 until she retired June 30, 2021 (Department Exhibit 2-18).

Claimant's employment with Lifetime Fitness is what triggered claimant filing her claim for unemployment insurance benefits. From March 20, 2020 through May 20, 2020, the employer was closed due to COVID-19. Claimant was not compensated by the employer for this period. When Lifetime Fitness reopened, and claimant returned to work May 21, 2020, her hours were reduced. Claimant did not perform any work for either employer for a two-week period between July 5-18, 2020 because she was on vacation. She continued to work for the employer on a part-time basis and was working part-time for the employer effective August 16, 2020.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was not eligible for unemployment insurance benefits effective August 16, 2020 due to full-time employment with the Norwalk Community School District.

Iowa Code § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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 § 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 96.19, subsection 38, paragraph "b", unnumbered paragraph (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(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.

For an individual to be eligible to receive benefits, she must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

The administrative law judge recognizes the claimant has filed her claim due to a reduction of hours with her part-time employer during the COVID-19 pandemic. However, because claimant's full-time employment did not change, she would be considered working to a degree that removes her from the labor market. Therefore, the claimant was not eligible for regular, state-funded unemployment insurance benefits. Benefits are denied.

**DECISION:**

The unemployment insurance decision dated March 22, 2021, (reference 07) is affirmed. The claimant was not able and available for work effective August 16, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied.



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Jennifer L. Beckman  
Administrative Law Judge  
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September 9, 2021  
Decision Dated and Mailed

jlb/mh