

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MAGGIE L SPURGEON**

Claimant

**APPEAL 20A-UI-12767-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BOONE COMMUNITY SCHOOL DIST**

Employer

**OC: 06/14/20**

**Claimant: Respondent (4)**

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment  
Iowa Code § 96.3-7 – Overpayment  
PL 116-136 Section 2104 (B) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Boone Community School Dist (employer) appealed a representative's August 26, 2020, decision (reference 02) that concluded Maggie Spurgeon (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 14, 2020. The claimant did not provide a telephone number and, therefore, did not participate in the hearing. The employer participated by Mitchell Lewis, Director of Business Services.

The employer offered and Exhibit One was received into evidence. 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.

The issue is also whether the claimant was overpaid benefits and whether the claimant is eligible for Federal Pandemic Unemployment Compensation.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 5, 2018, as a part-time Boone Extended Preschool associate. She was paid \$12.58 per hour and generally worked thirty hours per week. The employer closed the preschool from July 1, 2020, through August 23, 2020, and there was no work available for the claimant.

For the week ending June 20, 2020, the claimant earned \$323.00. She reported she earned \$108.00 and received \$165.00 in unemployment insurance benefits. For the week ending June 27, 2020, the claimant earned \$280.00. She reported she earned \$180.00 and received \$93.00 in unemployment insurance benefits.

For the week ending July 4, 2020, the claimant earned \$240.00. She reported she earned \$188.00 and received \$85.00 in unemployment insurance benefits. For the seven-weeks ending August 22, 2020, the claimant earned \$00.00. She reported she earned \$00.00 and received \$219.00 in unemployment insurance benefits each week. For each week the claimant received unemployment insurance benefits, she also receive \$600.00 in Federal Pandemic Unemployment Compensation.

The claimant filed for unemployment insurance benefits with an effective date of June 14, 2020. Her weekly benefit amount (WBA) was determined to be \$219.00. The claimant received benefits from June 14, 2020, to the week ending August 22, 2020. This is a total of \$1,876.00 in state unemployment insurance benefits after the separation from employment. She also received \$3,600.00 in Federal Pandemic Unemployment Compensation for the six-week period ending July 25, 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.

For the three weeks ending July 4, 2020, the claimant was at all times employed and earning wages. She cannot be considered totally or temporarily unemployed. The issue becomes whether she was partially unemployed. For a worker to be partially unemployed, she must be earning less than her WBA plus \$15.00. Each week the claimant earned greater than \$234.00, her WBA plus \$15.00. The claimant was not partially unemployed for the three weeks ending

July 4, 2020. She was not monetarily eligible for unemployment insurance benefits. Benefits are denied during the three weeks ending July 4, 2020.

If a worker is not employed for a period, exceeding four consecutive weeks, and that unemployment is due to a shutdown or lack of work, the worker is deemed to be totally unemployed. The claimant was totally unemployed for the seven weeks ending August 22, 2020. The employer had no work for her because the program was closed. The claimant was willing and able to work during that time. The claimant is eligible for unemployment insurance benefits for the seven weeks ending August 22, 2020.

The next issue is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code section 96.3(7)a-b, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

The claimant received \$343.00 in state unemployment insurance benefits during the three-week period ending July 4, 2020. This was during the period of time the claimant has been determined to be ineligible to receive benefits. The claimant is overpaid unemployment insurance benefits of 343.00.

The final issue is whether the claimant is eligible for or overpaid 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

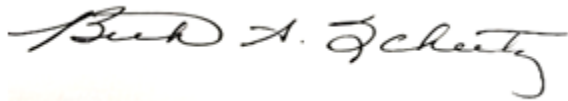
(2) Repayment.-- In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

The claimant has been disqualified from receiving regular unemployment insurance benefits. The claimant has received \$1,800.00 in Federal Pandemic Unemployment Compensation for the three-week period ending July 4, 2020. The claimant is overpaid \$1,800.00 in Federal Pandemic Unemployment Compensation/

**DECISION:**

The August 26, 2020, (reference 02) unemployment insurance decision is modified in favor of the appellant. The claimant is not able to work and available for work for the three-week period ending July 4, 2020.

The claimant is overpaid \$343.00 in state unemployment insurance benefits and \$1,800.00 in Federal Pandemic Unemployment Compensation.



---

Beth A. Scheetz  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

December 23, 2020  
Decision Dated and Mailed

bas/mh