

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRENDA M GEERTS

Claimant

APPEAL 21A-UI-03691-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

NEW HAMPTON-ST JOSEPH

Employer

OC: 03/29/20

Claimant: Appellant (2)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions
Iowa Admin. Code r. 871-24.23(26) – Available – Part-time Same Wages and Hours
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, Brenda M. Geerts, filed an appeal from the January 14, 2021 (reference 03) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 17, 2021. The claimant participated personally. The employer was represented by Paul Jahnke, hearing representative. Becky Ptacek-Havlik testified for the employer. Christina Carlson also attended.

The administrative law judge took official notice of the administrative records, including wage history. Employer Exhibit A was admitted without objection. 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 able to and available for work effective April 5, 2020?
Is the claimant totally, partially, or temporarily unemployed?
Is the claimant still employed at the same hours and wages?
Is the employer’s account subject to charge?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant established her claim for unemployment insurance benefits with an effective date of March 29, 2020.

Claimant began employment in 2018, and is currently employed full-time as a bookkeeper/classroom aide. She works approximately thirty-five hours per week and was paid

\$11.10 per hour at the time of her claim. Claimant also works part-time for Geerts Plumbing as an assistant manager, earning \$13.50 per hour.

For the week of April 5, 2020 through April 11, 2020, Claimant worked five hours for this employer and earned \$55.50. Hours were reduced due to the COVID-19 pandemic and classes not being held. Claimant also worked fourteen hours at Geerts Plumbing that week, earning \$189.00. Claimant's gross wages earned for the week were \$244.50.

For the week of April 12, 2020 through April 18, 2020, Claimant worked three hours for this employer, earning \$33.30. She performed twelve hours of work at Geerts Plumbing, earning \$162.00. Claimant's gross wages earned for the week were \$195.30.

Claimant worked all available hours. Effective April 19, 2020, claimant was paid through PPP funds from the employer and discontinued making weekly continued claims.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was partially unemployed April 5, 2020 through April 18, 2020. Benefits are allowed, provided she is otherwise eligible.

For an unemployed 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 credible evidence presented supports the claimant was able to and available for the applicable weeks she made weekly continued claims, and that she worked all available hours.

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 section 96.7(2)a(2)(a), (b), and (c) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

(b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(c) The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

For the two week period between April 5, 2020 and April 18, 2020, claimant was not employed under the same hours and wages as contemplated at hire. Her hours were reduced by no fault of her own. Based upon Iowa law, she is considered partially unemployed. Benefits may be allowed based upon reporting of weekly earnings.

In response to the economic impact of COVID-19, Iowa Workforce Development published on its website Unemployment Insurance Guidance for Employers and Workers. As part of that publication, the Agency announced that claims filed as a direct or indirect result of Covid-19 would not be charged to employers.

See <https://www.iowaworkforcedevelopment.gov/COVID-19#ife>

Based on the IWD announcement that employers will not be charged for benefits in connection with claims based directly or indirectly on COVID-19, this employer account will not be charged for benefits paid to the claimant in connection with the original claim that was effective March 29, 2020. The claimant's claim is correctly coded as a COVID-19-related claim.

DECISION:

The unemployment insurance decision dated January 14, 2021, (reference 03) is reversed. The claimant was able and available for work for the period of April 5-18, 2020. She was also partially unemployed. Benefits are allowed, provided she is otherwise eligible. Based upon IWD guidance, this employer's account shall be relieved of charges.



Jennifer L. Beckman
Administrative Law Judge
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March 19, 2021
Decision Dated and Mailed

jlb/lj