

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BRANDON A DEGROOT
Claimant

THE UNIVERSITY OF IOWA
Employer

APPEAL NO. 20A-UI-06742-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (4R)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Brandon Degroot filed a timely appeal from the June 12, 2020, reference 01, decision that denied benefits for the period beginning March 22, 2020, based on the deputy's conclusion that Mr. Degroot could not be considered partially unemployed within the meaning of the law. After due notice was issued, a hearing was held on July 28, 2020. Claimant Mr. Degroot participated. The employer did not provide a telephone number for the hearing and did not participate. Exhibits A, B and C were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUES:

Whether the claimant has been able to work and available for work since March 22, 2020.
Whether the claimant has been partially unemployed since March 22, 2020.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Brandon Degroot established an original claim for benefits that was effective March 22, 2020. Iowa Workforce Development set his weekly benefit amount at \$82.00. Mr. Degroot established his claim for benefits in connection with a voluntary separation from part-time employment as a live-in Resident Assistant at the University of Iowa. The University of Iowa is the sole base period employer in connection with the claim. The work period began in August 2019 and was scheduled to end on or about May 15, 2020 at the end of the spring 2020 academic term. The work involved assisting the 25 to 35 students who resided on Mr. Degroot's assigned floor of Currier Hall. Mr. Degroot's compensation for the work consisted of room and board, plus a \$1,560.00 stipend that was paid in 10 equal installments between September 1, 2019 and June 1, 2020.

Mr. Degroot last performed work for the University of Iowa on March 22, 2020. By that time, the University of Iowa had ended in-person classes and had transitioned to online classes due to the COVID-19 pandemic. While many students left campus at that time, the University did not compel students to leave. The University notified Mr. Degroot that he would be reassigned to a floor of students in Stanley Hall, adjacent to Currier Hall. Mr. Degroot was concerned for his

own safety in light of the COVID-19 pandemic. His concern included potential exposure to COVID-19 while using the water fountain, while using the restroom facilities, and while using commune use areas of the dorm. Though the University had made changes to the dining hall experience to hinder the spread of COVID-19, the University had not made any changes to the dorm environment and experience to hinder the spread of COVID-19. There was no mask mandate and no social distancing mandate in the dorm. By electing to leave his resident assistant position in mid-March 2020, Mr. Degroot surrendered the room and board arrangement that was a substantial part of his compensation. The University continued to pay Mr. Degroot his stipend through the end of the academic year, but declined to compensate Mr. Degroot for the room and board arrangement he lost by leaving the employment.

While Mr. Degroot was employed by the University of Iowa, he participated in a paid, student internship at the Veterans Administration hospital in Iowa City. The internship ended on March 22, 2020, when the VA barred students from the hospital due to COVID-19.

Mr. Degroot earned his master's degree in social work on or about May 15, 2020 and thereafter commenced looking for employment in his field. Mr. Degroot's job search was hindered due to the VA and the University of Iowa each having a hiring freeze in effect due to COVID-19.

By the time of the July 28, 2020 appeal hearing, Mr. Degroot had made weekly claims for the 17 consecutive weeks between March 22, 2020 and July 18, 2020. Mr. Degroot struggled with how to report his stipend/wages for the Resident Assistant employment when he made his weekly claims.

REASONING AND CONCLUSIONS OF LAW:

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 96.19, 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. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the

availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(5) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

...

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The evidence in the record establishes that Ms. Degroot has been physically and mentally able to work since he established his claim for benefits.

In connection with the Covid-19 pandemic and passage of the Public Law 116-136, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Iowa Workforce Development published on its website a list of Covid-19-related scenarios under which a claimant would be eligible for unemployment insurance benefits. The scenarios create limited and temporary modifications to the able and available requirements set forth at Iowa Code section 96.4(3). Mr. Degroot's circumstance, fear of exposure to COVID-19, does not fall within any of these published scenarios. See <https://www.iowaworkforcedevelopment.gov/COVID-19>, updated March 30, 2020.

The weight of the evidence establishes that Mr. Degroot cannot be deemed available for work or partially or temporarily unemployed during the period of March 22, 2020 through the benefit week that ended May 16, 2020, for which period the University of Iowa had work available for Mr. Degroot and for which period continued to pay his stipend. Mr. Degroot is not eligible for benefits for the period of March 22, 2020 through the benefit week that ended May 16, 2020.

As of May 16, 2020, the University of Iowa employment would have no longer been available, even if Mr. Degroot had stayed in the employment, and was no longer a factor in determining whether Mr. Degroot was available for work. Since that time, Mr. Degroot remained available for work and was engaged in a search for new employment in his degree field. Mr. Degroot is eligible for benefits for the period beginning May 17, 2020, provided he meets all other eligibility requirements. This matter will have to be remanded to the Benefits for Bureau for adjudication of the separation from the employment.

DECISION:

The June 12, 2020, reference 01, decision is modified as follows. The claimant has not been able to work since he established the original claim for benefits that was effective March 22, 2020. The claimant was not available for work and was not temporarily or partially unemployed during the period of March 22, 2020 through the benefit week that ended May 16, 2020. The claimant has been available for work since May 16, 2020 and is eligible for benefits beginning May 16, 2020, provided he meets all other eligibility requirements.

This matter is remanded to the Benefits Bureau for adjudication of the separation from the employment.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits for the period of March 22, 2020 through May 16, 2020. 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. *If this decision becomes final or if you are not eligible for Pandemic Unemployment Assistance (PUA), you will have an overpayment of benefits that you will be required to repay.* Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, 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>.



James E. Timberland
Administrative Law Judge

September 9, 2020
Decision Dated and Mailed

jet/scn