

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JODY GRITTMANN

Claimant

APPEAL 20A-UI-05452-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CEDAR FALLS COMM SCH DIST

Employer

OC: 04/05/20

Claimant: Appellant (1)

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 § 96.3-7 – Overpayment

PL 116-136 Section 2104 (B) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated May 28, 2020 (reference 01) that determined she was not able and available for work. The claimant participated in the hearing on July 8, 2020. Lori Bruns, Human Resources Specialist, participated in the hearing on behalf of the employer.

ISSUES:

The issues are 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 issues are whether the claimant is available for work, 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 as a part-time food service employee for Cedar Falls Community School District on August 30, 2016. The school district was on spring break from March 16 through March 20, 2020, and then school was suspended from March 23 through June 2, 2020 because of COVID-19. The employer paid food service employees for the hours they were unable to work due to COVID-19.

The claimant also has a part-time job with Hallmark. She was laid off from Hallmark March 23, 2020, due to COVID-19. She returned to work at Hallmark June 8, 2020.

The claimant filed for unemployment insurance benefits with an effective date of April 5, 2020 but has not received any benefits to date.

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.

In order to receive regular unemployment insurance benefits under Chapter 96 of the Iowa Code, a totally unemployed claimant must establish he or she is able to and available for work. Iowa Code § 96.4(3).

In this case, the claimant was totally unemployed. So the issue is whether she was able to and available for work.

Iowa Admin. Code r. 871-24.23(10) provides:

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

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

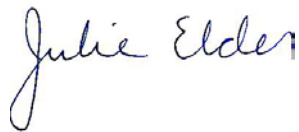
While the employer did not have work available for the claimant, it paid her regular wages from March 23 through June 2, 2020, the last scheduled day of school.

The claimant was considered to be on a leave of absence due to COVID-19 and is not available for work. Therefore, the claimant is not eligible for regular, state-funded unemployment insurance benefits from this employer.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she 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 does not have to be able and available for work to be eligible for the federal unemployment programs. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

DECISION:

The May 28, 2020. (reference 01) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective April 5, 2020. Regular unemployment insurance benefits funded by the state of Iowa from this employer are denied until such time as the claimant is able to and available for work.



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

July 20, 2020
Decision Dated and Mailed

je/scn

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>.