

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RICK A REEG
Claimant

APPEAL 21A-UI-01099-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BELLEVUE COMMUNITY SCHOOL DIST
Employer

OC: 05/17/20
Claimant: Respondent (4)

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2)f – Availability for Work - Part-time Worker/Student
Iowa Admin. Code r. 871-23.43(4)a – Supplemental Employment

STATEMENT OF THE CASE:

The employer/appellant, Bellevue Community School District, filed an appeal from the December 7, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 15, 2021. The claimant, Rick A. Reeg, did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing. The employer participated through Penny Medinger.

The administrative law judge took official notice of the administrative records. 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 totally, partially, or temporarily unemployed?
Is the claimant able to and available for work?
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 a claim for unemployment insurance benefits with an effective date of May 17, 2020. Claimant’s weekly benefit amount is \$500.00.

Claimant has worked for this employer on a part-time basis as the high school girls’ basketball coach since 2007. Claimant is paid an agreed upon fee, rather than hourly rate, for the season, which runs from November until February or March each year. Claimant works on average 10-15 hours per week, depending on the scheduled games. Claimant worked through the 2019-

2020 school year until February 22, 2020. Claimant resumed for the 2020-2021 season on November 9, 2020.

Claimant also has full-time employment with Rockwell Collins. The claim for benefits was not based upon changes with the part-time employer, but rather his full-time employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed and this part-time employer is relieved of benefit charges.

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", subparagraph (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(26) provides:

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

(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.

Iowa Admin. Code r. 871-23.43(4)a provides in part:

(4) Supplemental employment.

a. An individual, who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer, continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges....

Iowa Admin. Code r. 871-24.22(2)f 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.

f. Part-time worker, student--other. Part-time worker shall mean any individual who has been in the employ of an employing unit and has established a pattern of part-time regular employment which is subject to the employment security tax, and has accrued wage credits while working in a part-time job. If such part-time worker becomes separated from this employment for no disqualifiable reason, and providing such worker has reasonable expectation of securing other employment for the same number of hours worked, no disqualification shall be imposed under Iowa Code section 96.4(3). In other words, if an individual is available to the same degree and to the same extent as when the wage credits were accrued, the individual meets the eligibility requirements of the law.

Claimant in this case is still employed part-time for this employer. Because the claimant has other base-period wages and is currently employed part-time, he may be considered partially unemployed. Partial benefits may be allowed if he is otherwise eligible. Inasmuch as this current part-time employer is offering the same wages and hours as contemplated at hire, no benefit charges shall be made to its account.

DECISION:

The December 7, 2020 (reference 01) initial decision is modified in favor of the employer/appellant. The claimant is partially unemployed and benefits are allowed, provided he is otherwise eligible. The account of this current part-time employer shall not be charged. Claimant should report gross wages for the week in which they are earned for the purpose of establishing continuing eligibility for partial unemployment benefits.



Jennifer L. Beckman
Administrative Law Judge
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February 25, 2021
Decision Dated and Mailed

jlb/kmj