

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DONTA R EUELLS
Claimant

APPEAL 20A-UI-15948-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEDONA STAFFING INC
Employer

**OC: 09/06/20
Claimant: Respondent (4R)**

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 § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

On November 30, 2020, the employer filed an appeal from the November 23, 2020, (reference 01) unemployment insurance decision that allowed benefits effective September 6, 2020. The parties were properly notified about the hearing. A telephone hearing was held on January 29, 2021. Claimant did not register for the hearing and did not participate. Employer participated through unemployment benefits administrator Colleen McGuinty. Employer's Exhibit 1 was received.

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?
Was the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer is a temporary staffing firm. Claimant was laid off from employer's client on April 21, 2020, because the client shut down due to COVID 19. Employer reached out to claimant on September 15 and 22, 2020, and left voice messages asking claimant if he was available for work. Employer offered and claimant accepted an assignment beginning October 7, 2020. Claimant worked full-time hours on the assignment through October 20, 2020, when it ended. The assignment ended and claimant did not request another assignment, even though employer has a policy requiring him to do so within three working days of an assignment ending.

Claimant filed weekly claims and received benefits for the 16 weeks ending December 26, 2020. Claimant did not report working or receiving any wages for the time period between October 7,

2020, and October 20, 2020. No decision has been made on whether claimant's separation from employment on October 20, 2020, disqualifies him from receiving unemployment insurance benefits.

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 and able to work from September 6, 2020, through October 7, 2020. Benefits are allowed during this time period. Employer should not be charged for claimant's benefits as he was laid off due to the COVID 19 pandemic.

Claimant worked from October 7, 2020, through October 20, 2020, but did not report his wages and continued to receive full unemployment insurance benefits. This matter will be remanded to the Investigation & Recovery Bureau for an investigation and an initial decision regarding whether claimant was overpaid benefits during that time period.

Claimant separated from employment with employer on October 20, 2020. The issue of whether claimant's separation from employment disqualified him from receiving further benefits will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial decision.

DECISION:

The November 23, 2020, (reference 01) unemployment insurance decision is modified in favor of employer. The claimant is eligible for benefits from September 6, 2020, through October 7, 2020, based on a layoff due to the COVID 19 pandemic. Employer should not be charged for the benefits, in accordance with the policy announced by Iowa Workforce Development.

REMAND:

The issue of whether claimant was overpaid benefits during the time period beginning October 7, 2020, through October 20, 2020, when he was working full-time hours, but did not report wages on his weekly claims is remanded the Investigation and Recovery Bureau of Iowa Workforce Development.

The issue of whether claimant's separation from employment with employer on October 20, 2020, disqualifies him from receiving further unemployment insurance benefits is remanded to the Benefits Bureau for an initial investigation and decision.



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

February 16, 2021
Decision Dated and Mailed

cal/mh