

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**BRAD M MYERS**  
Claimant

**APPEAL NO. 20A-UI-07473-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NPC INTERNATIONAL INC**  
Employer

**OC: 04/19/20**  
**Claimant: Respondent (1)**

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours  
Iowa Code § 96.4-3 – Able and Available  
Iowa Code § 96.7(2)A(2) – Partial Benefits  
Iowa Code § 96.19(38) – Total and Partial Unemployment  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated June 26, 2020, reference 01, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on August 10, 2020. Claimant participated personally. Employer participated by Tia Schrank.

**ISSUES:**

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

The claimant currently works for NPC International, a base period employer, part time under the same terms and conditions as contemplated in the original contract of hire. Claimant also has other part time wages in the base period history.

Claimant stated that he works two part time jobs. His job for NPC involves the weekend delivery of pizzas. Claimant stated that in this job he has gotten consistent hours and continues to be paid the same weekly amount.

For the week ending May 9, 2020 claimant claimed wages of \$215.00. This is below claimant's weekly benefit amount of \$246. For that reason, he receive state and FPUC unemployment benefits. Claimant stated that he worked his regular hours, but believed that he reported different wages as he received different tip amounts.

Claimant has received state unemployment benefits in this matter of \$92.00.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$600.00.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed and employer's account shall not be charged.

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 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.

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....

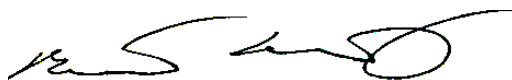
Because the claimant has other base-period wages and is currently employed part time, claimant is considered partially unemployed. Partial benefits are allowed for the one week ending May 25, 2020. Inasmuch as the current part-time employer is offering the same wages and hours as in the base period, no benefit charges shall be made to its account.

Claimant has received state unemployment benefits in this matter of \$92.00.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$600.00.

**DECISION:**

The June 26, 2020, reference 01, decision is affirmed. The claimant is partially unemployed for the one week ending May 25, 2020 and benefits are allowed, provided claimant is otherwise eligible. The account of the current part-time employer shall not be charged.



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Blair A. Bennett  
Administrative Law Judge

August 17, 2020  
Decision Dated and Mailed

bab/scn