

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CYNTHIA A HOUSE**  
Claimant

**AMERICAN ORDNANCE LLC**  
Employer

**APPEAL 20A-UI-03915-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/15/20**  
**Claimant: Appellant (1R)**

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Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

**STATEMENT OF THE CASE:**

The claimant/appellant, Cynthia A. House, filed an appeal from the May 6, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision regarding benefits for the week of April 19-25, 2020, concluding the claimant did not meet the definition of unemployed because she worked full-time hours for the week. The parties were properly notified about the hearing. A telephone hearing was held on May 28, 2020. The claimant participated personally. The employer participated through writing only. Employer Exhibit A (Written statement) was admitted into evidence, and Claimant Exhibits 1 and 2 were also admitted.

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:**

Was the claimant temporarily, partially or temporarily unemployed for the week ending April 25, 2020?

Was the claimant able and available for work for the week ending April 25, 2020?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began employment in 2011 as a full-time radiographer. She currently earns \$24.09 per hour.

Prior to the week of March 15, 2020, the employer advised employees to establish a claim for unemployment insurance benefits, in the event that their hours were reduced in response to COVID-19. The claimant did establish her claim for benefits with an effective date of March 15, 2020. She did not file weekly claims because she continued working full-time. Then during the week of April 12-18, 2020, the x-ray machine broke, and the claimant was only able to work 7 hours that week (earning \$168.00 in wages). The claimant did not realize her claim had closed

due to inactivity, and missed the deadline to file a claim for the week ending April 18, 2020, when she was partially unemployed. The claimant has attempted to contact IWD to address the issue administratively and to enter the back week into her claim, but was unsuccessful. She worked all available hours for the week ending April 18, 2020 and did not refuse any work.

The claimant filed a weekly continued claim for the week ending April 25, 2020. She earned \$960.00 in wages for the week, and worked full-time. The claim on file for the week ending April 25, 2020 was in error and in response to the claimant's attempt to enter her claim for the week ending April 18, 2020.

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

For the reasons that follow, the administrative law judge concludes the claimant is ineligible for benefits for the week ending April 25, 2020.

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 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. 871-24.23(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

Because the claimant worked full-time for the week ending April 25, 2020, she is ineligible for benefits. Benefits are denied for the week ending April 25, 2020.

The administrative law judge recognizes the real week in question is April 18, 2020, but the claimant does not currently have a claim on file for that week. Therefore, the question of her eligibility for that week cannot be addressed at this time.

The issues of whether the claimant may backdate her additional claim, and is eligible for retroactive benefits for the week ending April 18, 2020 are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

**DECISION:**

The May 6, 2020 (reference 01) initial decision is affirmed. The claimant was not unemployed for the week ending April 25, 2020. Benefits are denied for the week ending April 25, 2020.

**REMAND:** The issues of whether the claimant may backdate her additional claim, and is eligible for retroactive benefits for the week ending April 18, 2020 are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



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Jennifer L. Beckman  
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June 9, 2020  
Decision Dated and Mailed

jlb/sam