

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACKIE L EHLTS
Claimant

APPEAL NO. 20A-UI-11939-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEDONA STAFFING INC
Employer

OC: 03/29/20
Claimant: Respondent (4R)

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 September 22, 2020, reference 02, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on December 1, 2020. Claimant participated personally. Employer participated by Colleen McGuinty. Employer's Exhibit 1 was admitted into evidence.

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 worked for Sedona Staffing until June 4, 2020, a base period employer under the same terms and conditions as contemplated in the original contract of hire. During late March through mid May 2020, claimant missed a number of weeks of work while her placement –Plastic Products – was shut down for Covid multiple times. Employer did not place claimant in other work during any of these shutdowns.

Claimant has received state unemployment benefits in this matter during the periods of shutdowns prior to June 1, 2020 of \$888.00.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter during the periods of shutdowns of \$1,800.00.

Employer does not dispute claimant's right to these payments.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was temporarily unemployed for various weeks during the months of April and May, 2020.

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.

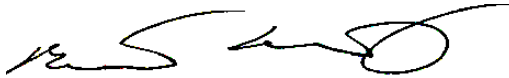
c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

The claimant is considered temporarily unemployed for the weeks she filed in April and May, 2020. Benefits are allowed for those filings. Claimant is not entitled to unemployment benefits in this matter after the date of June 1, 2020 as she was not temporarily unemployed after this date.

DECISION:

The September 22, 2020, reference 02, decision is modified in favor of the employer. The claimant was temporarily unemployed for varied weeks in April and May 2020 and benefits are allowed for the weeks when claimant filed for benefits.

This matter is remanded to the benefits bureau for calculation of allowed benefits in accordance with this decision and also in accordance with companion case 20A-UI-11940-B2T.



Blair A. Bennett
Administrative Law Judge

December 7, 2020
Decision Dated and Mailed

bab/scn