

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TURAN EVANS

Claimant

THE UNIVERSITY OF IOWA

Employer

APPEAL NO. 21A-UI-19961-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/08/20

Claimant: Appellant (5)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

The claimant, Turan Evans, filed a timely appeal from the August 31, 2021, reference 01, decision that denied benefits effective June 6, 2021, based on the deputy's conclusion that the claimant was not partially unemployed. After due notice was issued, a hearing was held on October 29, 2021. Claimant participated. Scott Coons represented the employer. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUES:

Whether the claimant was able to work and available for work for the period beginning June 6, 2021.

Whether the claimant was partially and/or temporarily unemployed for the period beginning June 6, 2021.

Whether the claimant may be considered for benefits for the week that ended May 29, 2021.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed by the University of Iowa as a full-time Associate Research Scientist Engineer. The claimant usually works a Monday through Friday schedule.

The claimant established an original claim for benefits that was effective November 8, 2020. Iowa Workforce Development set the weekly benefit amount at \$512.00. The University of Iowa is the sole base period employer. After the claimant established the November 8, 2020 original claim, she made a timely weekly claim for the week that ended November 14, 2020 and received benefits for that week. The claimant then discontinued her claim in connection with her return to the full-time employment.

During the work week of May 24-28, 2021, the claimant was off work pursuant to a mandatory unpaid furlough and earned no wages. The claimant returned to the full-time employment on or about Monday, May 31, 2021.

The claimant did not take steps to reactivate her unemployment insurance claim during the week of the furlough, the week that ended May 29, 2021, or during the week that ended June 5, 2021. On June 6, 2021, the claimant reactivated her claim for benefits to establish an "additional claim" effective June 6, 2021. The claimant did not thereafter make a weekly claim.

REASONING AND CONCLUSIONS OF LAW:

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. 871-24.22(2) 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.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

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.

Iowa Code section 96.1A(37) 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.

If a claimant individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. Iowa Code section 96.7(2)(a)(2)(a).

Iowa Administrative Code rule 871-24.2(1)(h)(1) provides as follows:

- (1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual files a claim for benefits.

Iowa Administrative Code rule 871-24.2.(1)(g) provides as follows:

- (g). No continued claim for benefits shall be allowed until the individual claiming benefits has completed a continued claim or claimed benefits as otherwise directed by the department.
- (1) The weekly continued claim shall be transmitted not earlier than 8 a.m . on the Sunday following the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on Friday following the weekly reporting period.

The claimant is not eligible for benefits for the period beginning June 6, 2021, the effective date of the additional claim. She was back to working full-time for the employer at that point, was not unemployed at that that point, and did not meet the unemployment "availability" requirement at that point.

The claimant cannot be considered for benefits for the week that ended May 29, 2021, even though the evidence establishes that she was temporarily laid off during that week pursuant to

the mandatory furlough. The claimant is not eligible for benefits for the week that ended May 29, 2021, because she did not reactivate her claim during that week and made no weekly claim for that week.

DECISION:

The August 31, 2021, reference 01, decision is modified as follows. The claimant is not eligible for benefits for the period beginning June 6, 2021, the effective date of the additional claim. She was back to working full-time for the employer at that point, was not unemployed at that point, and did not meet the unemployment "availability" requirement at that point. The claimant was neither temporarily or partially unemployed during the period that began June 6, 2021.

The claimant cannot be considered for benefits for the week that ended May 29, 2021, even though the evidence establishes that she was temporarily laid off during that week pursuant to the mandatory furlough. The claimant is not eligible for benefits for the week that ended May 29, 2021, because she did not reactivate her claim during that week and made no weekly claim for that week.

A handwritten signature in cursive script that reads "James E. Timberland". The signature is written in black ink on a light gray rectangular background.

James E. Timberland
Administrative Law Judge

November 17, 2021
Decision Dated and Mailed

jet/scn