

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CAROLYN R MORRISON
Claimant

FRONTIER NATURAL PRODUCTS CO-OP
Employer

APPEAL NO. 20A-UI-05099-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.3(7) – Recovery of Overpaid Benefits
Public Law 116-136, Section 2104(b) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Carolyn Morrison filed a timely appeal from the May 28, 2020, reference 01, decision that denied benefits effective March 29, 2020, based on the deputy's conclusion that Ms. Morrison requested and was granted a leave of absence, was voluntarily unemployed, and was not available for work within the meaning of the law. After due notice was issued, a hearing was held on July 2, 2020. Ms. Morrison participated. The employer did not provide a telephone number for the hearing and did not participate. Exhibits 1 through 7 were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO and KPYX.

ISSUES:

Whether Ms. Morrison was able to work and available for work within the meaning of the law during the period of March 29, 2020 through April 25, 2020.

Whether Ms. Morrison was overpaid regular benefits.

Whether Ms. Morrison was overpaid Federal Pandemic Unemployment Compensation.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Carolyn Morrison is employed by Frontier Natural Products Co-op as a full-time production worker. The work involves packaging food product. The nature of the work is such that Ms. Morrison has to be physically present at the workplace to perform the work. Ms. Morrison works at the employer's facility in Belle Plaine. The employer has three other facilities in other Iowa communities.

On April 1, 2020, Ms. Morrison submitted a written request for a leave of absence for the period of April 2, 2020 through May 1, 2020. Leading up to the leave request, the employer had been playing Governor Reynolds' daily press briefings regarding the COVID-19 pandemic on the radio at work and this prompted Ms. Morrison to be concerned for the safety of her mother and uncle. Ms. Morrison's mother is 81 years old. Ms. Morrison's uncle is 86. Ms. Morrison does not reside with her mother or uncle, but frequently spends time with them. Ms. Morrison had not

been exposed to COVID-19, but was concerned that she might become exposed to COVID-19 and pass the illness along to her mother or uncle. At the time Ms. Morrison had these concerns, the employer announced that anyone who wanted to self-quarantine at home out of concern for COVID-19 could do that. The employer also announced that those employees electing to go home could file for COVID-19 based unemployment insurance benefits and that the employer would not contest the claim. It was in this context that Ms. Morrison completed and returned her leave of absence request form. The employer approved the request. The employer continued to have full-time work for Ms. Morrison during the time when she was off work. Ms. Morrison offered to work from home, but the employer determined that was not feasible due to food safety issues. At some point, the employer had a COVID-19 exposure issue at its North Liberty plant, but this did not affect employees of the Belle Plaine plant.

Ms. Morrison filed a claim for benefits that was effective March 29, 2020. Iowa Workforce Development set Ms. Morrison's weekly benefit amount at \$359.00. Ms. Morrison made weekly claims for the four weeks between March 29, 2020 and April 25, 2020. Ms. Morrison worked three days during the week that ended April 4, 2020. Ms. Morrison reported those wages when she made her weekly claim and received \$146.00 in partial benefits for that week. Ms. Morrison had zero wages for the weeks that ended April 11, 18 and 25, 2020 and received \$359.00 in regular benefits for each of those weeks. Ms. Morrison also received \$2,400.00 in Federal Pandemic Unemployment Compensation for the period of March 29, 2020 through April 25, 2020.

During the period when Ms. Morrison was off work, she stayed home and avoided in-person contact with her mother and her uncle. When Ms. Morrison learned that other family members had been laid off and were available to take care of her mother if needed, Ms. Morrison decided to return to work earlier than the May 1, 2020, the return-to-work date she had provided to the employer. Ms. Morrison returned to her full-time employment effective Monday, April 27, 2020 and discontinued her unemployment insurance 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. 871-24.23(10) provides:

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

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

In connection with the Covid-19 pandemic and passage of the Public Law 116-136, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Iowa Workforce Development published on its website a list of Covid-19-related scenarios under which a claimant would be eligible for unemployment insurance benefits. The scenarios create limited and temporary exceptions to the able and available requirements set forth at Iowa Code section 96.4(3). Ms. Morrison's request to go off work out of concern for being exposed to COVID-19 and potentially communicating the illness to her mother does not fall within one of these exceptions to the able and available requirements. See <https://www.iowaworkforcedevelopment.gov/COVID-19>, updated March 30, 2020.

The weight of the evidence establishes that Ms. Morrison was on a leave of absence during the period of April 2-26, 2020. Ms. Morrison requested the leave of absence and the employer approved the leave of absence. Ms. Morrison was voluntarily unemployed and did not meet the availability requirement during the benefit weeks between March 29 2020 and April 25, 2020. Ms. Morrison is not eligible for benefits for those weeks. It is unfortunate that the employer provided Ms. Morrison erroneous information regarding unemployment insurance benefit eligibility, but that does not determine the outcome of this case.

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, Workforce Development must recover the benefits and the claimant must repay the benefits, even if the claimant was not at fault in receiving the benefits.

Because this decision affirms the denial of benefits, the \$1,223.00 in regular benefits that Ms. Morrison received for the period of March 29, 2020 through April 25, 2020 is an overpayment of benefits that Ms. Morrison must repay.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Because Ms. Morrison is disqualified from receiving regular unemployment insurance (UI) benefits, she is also disqualified from receiving Federal Pandemic Unemployment Compensation (FPUC). The \$2,400.00 in FPUC benefits Ms. Morrison received for the weeks between March 29, 2020 and April 25, 2020 constitutes an overpayment of benefits. Ms. Morrison is required to repay those benefits.

DECISION:

The May 28, 2020, reference 01, decision is affirmed. The claimant was on a leave of absence, was voluntarily unemployed, and did not meet the availability requirement during the benefit weeks between March 29, 2020 and April 25, 2020. The claimant is not eligible for benefits for that period. The claimant is overpaid \$1,223.00 in regular benefits for four weeks between March 29, 2020 and April 25, 2020. The claimant is overpaid \$2,400.00 in FPUC benefits for four weeks between March 29, 2020 and April 25, 2020. The claimant must repay the overpaid regular and FPUC benefits.



James E. Timberland
Administrative Law Judge

July 17, 2020
Decision Dated and Mailed

jet/sam