

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**KONNOR L PIERSON**  
Claimant

**PARCO LTD**  
Employer

**APPEAL 20A-UI-05042-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20**  
**Claimant: Respondent (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(16) – Able & Available – Availability Disqualifications  
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
PL 116-136, Sec. 2104(b) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

On June 1, 2020, the employer filed an appeal from the May 28, 2020, (reference 01) unemployment insurance decision that allowed benefits based on claimant's availability for work. The parties were properly notified about the hearing. A telephone hearing was held on July 1, 2020. Claimant did not register for the hearing and did not participate. Employer participated through human resource manager Juliet Diaz. Employer's Exhibit 1 was received.

**ISSUES:**

Is the claimant totally, partially, or temporarily unemployed?  
Is the claimant able to and available for work?  
Is the employer's account subject to charge?  
Was the claimant overpaid unemployment insurance benefits?  
Is the claimant eligible for Federal Pandemic Unemployment Assistance?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on July 23, 2019. Claimant works for employer as a full-time assistant manager.

Employer is a Wendy's restaurant.

Claimant's last day of work was April 1, 2020. Claimant gave employer a doctor's note that excused him from work until April 6, 2020, because he had symptoms of COVID 19.

Claimant did not return to work on April 7, 2020. Claimant stated that he needed an extra 30 days off work. Employer approved his request, but claimant then went through the drive

through and appeared perfectly fine and was not exhibiting symptoms. Employer continuously tried to contact claimant to return to work, but he did not respond.

Claimant has not received any unemployment insurance benefits or FPUC benefits since filing this claim.

Iowa Workforce Development has determined that claimant was separated from employer and that his separation disqualifies him from receiving unemployment insurance benefits.

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

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.

In this case, claimant was totally unemployed. In order to receive regular unemployment insurance benefits under Chapter 96 of the Iowa Code, a totally unemployed claimant must establish he or she is able to and available for work. Iowa Code § 96.4(3).

Iowa Admin. Code r. 871-24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

Claimant is not making himself available for work and therefore is not eligible for unemployment insurance benefits. Claimant is likewise not eligible for Federal Pandemic Unemployment Compensation. See PL 116-136, Sec. 2104(b).

Claimant has not received any unemployment insurance benefits, and therefore, has not been overpaid unemployment insurance benefits.

**DECISION:**

The May 28, 2020, (reference 01) unemployment insurance decision is reversed. The claimant is not able to and available for work. Regular unemployment insurance benefits funded by the state of Iowa are denied.



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Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

July 10, 2020  
Decision Dated and Mailed

cal/scn

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.