

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NATHAN J GRUBER
Claimant

WATERLOO COMMUNITY SCH DIST
Employer

APPEAL 20A-UI-04362-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Code § 96.4(5) – Reasonable Assurance
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL 116-136, Sec. 2104(b) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

On May 21, 2020, the claimant filed an appeal from the May 21, 2020, (reference 02) unemployment insurance decision that denied benefits effective March 15, 2020 based on a finding that claimant was not eligible for benefits during an academic vacation or holiday break. The parties were properly notified about the hearing. A telephone hearing was held on June 5, 2020. Claimant participated. Employer participated through employee relations and liability specialist Korey Minard.

ISSUES:

Is the claimant eligible for unemployment insurance benefits during a customary vacation or holiday recess?
Was the claimant overpaid unemployment insurance benefits?
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer is an educational institution. On February 7, 2018, claimant started working for the employer as a substitute teacher.

Claimant's last day of work for employer was March 11, 2020.

Employer had a previously scheduled spring break from March 16, 2020, until March 20, 2020.

Claimant did not work during spring break.

Claimant remained active on the school substitute teaching list.

Claimant worked for employer as a substitute teacher after spring break.

Claimant also received pay for certain dates between March 20 and April 12, 2020, for assignments previously scheduled but canceled due to the COVID 19 pandemic. Claimant did not report these wages when making weekly continued claims for benefits.

Claimant received \$292.00 in unemployment insurance benefits for the one week ending March 21, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did have reasonable assurance of returning to work the following academic break.

Iowa Code section 96.4(5)c provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.19, subsection 18, are payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

c. With respect to services for an educational institution in any capacity under paragraph "a" or "b", benefits shall not be paid to an individual for any week of unemployment which begins during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before such vacation period or holiday recess, and the individual has reasonable assurance that the individual will perform the services in the period immediately following such vacation period or holiday recess.

Claimant had reasonable assurance he would remain on employer's substitute list after the academic break. Therefore, benefits are denied during the one week ending March 21, 2020.

The next issue is whether claimant was overpaid benefits for that week.

Iowa Code § 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding § 96.8, subsection 5. . . .

The administrative law judge concludes that the claimant has been overpaid unemployment insurance benefits in the amount of \$292.00 pursuant to Iowa Code § 96.3(7) as claimant was not eligible for benefits during the one week ending March 21, 2020.

Claimant did not receive a Federal Pandemic Unemployment Compensation payment for the week ending March 21, 2020, as that benefit was not available as of that date. Therefore, no determination will be made as to whether claimant was eligible for FPUC benefits in this decision.

The issue of whether claimant is eligible for regular, state-funded unemployment insurance benefits effective March 22, 2020, going forward based on a wage record consisting entirely of on-call work and whether claimant was overpaid benefits after March 22, 2020, going forward will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial decision. Claimant's weekly continued claim reports for the time period between March 20 and April 12, 2020, should also be adjusted by the Benefits Bureau of Iowa Workforce Development to reflect wages received from this employer during that time period.

DECISION:

The May 21, 2020, (reference 02) unemployment insurance decision is affirmed. Claimant had reasonable assurance of returning to work after the academic break. Benefits are denied for the one week ending March 21, 2020, and claimant was overpaid \$292.00 for the same time period.

REMAND:

The issues of whether claimant is eligible for unemployment insurance benefits effective March 22, 2020, going forward based on a wage record consisting entirely of on-call work and whether claimant was overpaid benefits after March 22, 2020, going forward is remanded to the Benefits Bureau of Iowa Workforce Development for an initial decision. Claimant's weekly continued claim reports for the time period between March 20 and April 12, 2020, should also be adjusted by the Benefits Bureau of Iowa Workforce Development to reflect wages received from this employer during that time period.



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

June 22, 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 due to disqualifying separations, 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>.