

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SAMANTHA A MAJOR
Claimant

FOURANS, LLC
Employer

APPEAL 22A-UI-03920-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/28/21
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On January 22, 2022, the employer filed an appeal from the January 18, 2022, (reference 03) unemployment insurance decision that allowed benefits based on a finding the claimant was on a short-term layoff. The parties were properly notified about the hearing. A telephone hearing was held on March 14, 2022. Claimant Samantha A. Major did not participate. Employer Fourans, LLC participated through senior director Anil Putenchira. After the hearing, the administrative law judge reopened the record to correct issues on the notice of hearing. After due notice was issued, a hearing was held on April 8, 2022. Claimant did not participate. Employer participated through senior director Anil Putenchira. The administrative law judge took official notice of the administrative file. The administrative law judge left the record open after the hearing to allow employer to provide a copy of claimant's work schedule. It was received and admitted as Employer's Exhibit A.

ISSUES:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on November 1, 2021. Claimant worked as a full-time customer service representative until her separation from employment on February 4, 2021. Claimant worked 40 hours per week and earned \$19.00 per hour.

Claimant filed her initial claim for benefits because she was not scheduled to work on November 25, 2021, Thanksgiving Day and would receive no wages. Claimant worked her regular full-time schedule from November 28, 2021, until February 3, 2022, the last day claimant worked for employer.

Claimant filed her initial claim for benefits effective November 28, 2021. Claimant did not file a weekly continued claim to seek unemployment insurance benefits for that week or any subsequent week. Claimant reactivated her unemployment insurance claim on January 30,

2022. A February 24, 2022 (reference 06) decision addressed the issue of whether claimant was totally, partially, or temporarily unemployed effective January 30, 2022.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the issue is moot.

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 § 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.

Iowa Code section 96.6(1) provides:

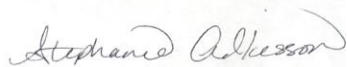
1. Filing. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

In order to be eligible for weekly benefits, the claimant must file an online web application continued claim. Iowa Admin. Code r. 871-24.2(1)g. The law no longer allows for an administrative law judge to grant retroactive benefits provided the claimant demonstrates good cause. Generally, courts and administrative tribunals do not decide issues when the underlying controversy is moot. *Rhiner v. State*, 703 N.W.2d 174, 176 (Iowa 2005). "A case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent." *Iowa Bankers Ass'n v. Iowa Credit Union Dep't*, 335 N.W.2d 439, 442 (Iowa 1983).

In this case, claimant did not file any weekly continued claim for benefits between November 28, 2021, and January 29, 2022. As there is no longer any ability under Iowa law to receive retroactive benefits, claimant has missed her opportunity to seek benefits for that period. Therefore, there is no live case or controversy before the Appeals Bureau. It does not matter whether claimant was available or whether she was totally, partially, or temporarily unemployed between November 28, 2021, and January 29, 2022, because she did not seek benefits during that period. The issue of whether she was totally, partially, or temporarily unemployed effective November 28, 2021, is moot.

DECISION:

The January 18, 2022, (reference 03) unemployment insurance decision is modified in favor of the employer/appellant. The issue of whether the claimant was totally, partially, or temporarily unemployed between November 28, 2021, and January 29, 2021, is moot.



Stephanie Adkisson
Administrative Law Judge
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April 13, 2022
Decision Dated and Mailed

sa/mh