

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

MELISSA A SAMS
Claimant

APPEAL NO: 20A-UI-09483-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MUSCATINE NURSING AND REHABILITATI
Employer

OC: 04/05/20
Claimant: Appellant (1)

871 IAC 24.23(10) – Leave of Absence
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 29, 2020, reference 01 decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 24, 2020. The claimant participated in the hearing with Attorney Stuart Higgins. Brooke Vondal, Human Resources and Payroll, participated in the hearing on behalf of the employer. Claimant's Exhibits One through Six were admitted into evidence.

ISSUE:

The issue is whether the claimant is able and available for work and whether she is on a leave of absence.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a PRN CNA. Her last day worked was March 29, 2020, before she chose to discontinue working for the employer for a period of time due to her concerns about COVID-19. She next worked for the employer July 26, 2020, and then resigned her position with the employer July 29, 2020, because she accepted a full-time position with Reach in Iowa City.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not able and available for work and did take a leave of absence before resigning her position July 29, 2020.

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.

The claimant was effectively on a leave of absence because she did not wish to work in the care facility during COVID-19 due to its high infection rate. While the claimant had good cause for taking a leave of absence, she is not considered to be able and available for work while on a leave of absence. Accordingly, benefits must be denied.

DECISION:

The July 29, 2020, reference 01, decision is affirmed. The claimant was not able and available for work and did take a leave of absence from March 29, 2020 to July 26, 2020. Benefits are withheld until such time as the claimant makes herself available for work to the extent she was available during the base period history and the employer has no comparable or suitable work available for her.



Julie Elder
Administrative Law Judge

September 28, 2020
Decision Dated and Mailed

je/sam

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>.