

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DUSTIN R HATCHER**  
Claimant

**OTTO COMPANIES INC**  
Employer

**APPEAL 21A-UI-15129-AD-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 03/28/21**  
**Claimant: Respondent (2)**

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Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search

**STATEMENT OF THE CASE:**

On July 6, 2021, Otto Companies Inc. (employer/appellant) filed a timely appeal from the June 29, 2021 (reference 01) unemployment insurance decision that allowed benefits beginning March 28, 2021 based on a finding claimant was able and available for work and working when work was available.

A telephone hearing was held on August 26, 2021. The parties were properly notified of the hearing. Dustin Hatcher (claimant/respondent) did not register a number for the hearing or participate. Employer participated by Travis Otto.

Employer's Exhibit 1 was admitted. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. 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 June 6, 2012. Claimant is still employed by employer. Claimant is employed full-time as a kitchen manager. Claimant filed for benefits in the weeks ending April 3, 10, and 17, 2021. Claimant was not available for work during the weeks filed due to undergoing a medical procedure which kept him out of work during that time. There was work available for claimant during those weeks.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the June 29, 2021 (reference 01) unemployment insurance decision that allowed benefits beginning March 28, 2021 based on a finding claimant was able and available for work and working when work was available is REVERSED. Claimant is not eligible for benefits during the weeks filed.

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".

The administrative law judge finds any reduction in work during the weeks filed was due to claimant being unable or unavailable for work. He is therefore ineligible for benefits in those weeks.

**DECISION:**

The June 29, 2021 (reference 01) unemployment insurance decision that allowed benefits beginning March 28, 2021 based on a finding claimant was able and available for work and working when work was available is REVERSED. Claimant is not eligible for benefits during the weeks filed.



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

August 31, 2021  
Decision Dated and Mailed

abd/scn

***Note to Claimant:***

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for regular unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.