

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**GABRIELLE R TANKE**  
Claimant

**WINDSOR MANOR**  
Employer

**APPEAL 21A-UI-05134-AD-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/26/20**  
**Claimant: Respondent (2)**

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

**STATEMENT OF THE CASE:**

On February 9, 2021, Windsor Manor (employer/appellant) filed a timely appeal from the February 4, 2021 (reference 02) unemployment insurance decision that allowed benefits beginning November 29, 2020 based on a finding claimant was unemployed due to a short-term layoff and was able and available for work during the layoff.

A telephone hearing was held on April 20, 2021. The parties were properly notified of the hearing. Gabrielle Tanke (claimant/respondent) did not register a number for the hearing and did not participate. Employer participated by HR Director Cinda Siwach.

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 August 24, 2020. Claimant is still employed by employer. Claimant is employed full-time as a residence assistant.

Claimant filed a claim for benefits in the weeks ending August 22, December 5, and December 12, 2020. Claimant was employed and working full-time in the weeks ending December 5 and 12, 2020. Claimant has not established her availability for work in the week ending August 22, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the February 4, 2021 (reference 02) unemployment insurance decision that allowed benefits beginning November 29, 2020 based on a finding claimant was

unemployed due to a short-term layoff and was able and available for work during the layoff 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".

Claimant filed a claim for benefits in the weeks ending August 22, December 5, and December 12, 2020. Claimant was employed and working full-time in the weeks ending December 5 and 12, 2020. Because claimant was employed and working full-time in those weeks, she was not available for other work and so is not eligible for benefits in those weeks. Claimant has not met her burden of establishing her ability or availability for work in the week ending August 22, 2020.

**DECISION:**

The February 4, 2021 (reference 02) unemployment insurance decision that allowed benefits beginning November 29, 2020 based on a finding claimant was unemployed due to a short-term layoff and was able and available for work during the layoff 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

April 26, 2021  
Decision Dated and Mailed

abd/ol

***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>.