

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TARA R CORKERY
Claimant

APPEAL 20A-UI-07851-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PRIES ENTERPRISES INC
Employer

OC: 03/29/20
Claimant: Appellant (5)

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

The claimant/appellant, Tara R. Corkery, filed an appeal from the July 8, 2020 (reference 04) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 17, 2020. The hearing was held jointly with Appeal 20A-UI-07850-JC-T. The claimant participated. The employer, Pries Enterprises Inc., participated through Angela Helmrichs, human resources and safety manager.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant totally, partially or temporarily unemployed?

Is the claimant able to work and available for work effective May 10, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began employment January 2, 2018. She last physically worked on the job March 27, 2020 as a full-time extrusion saw helper. She separated from employment on May 17, 2020. The issue of the claimant’s permanent separation has been detected by IWD. (See reference 02).

The claimant requested, and was approved for a personal leave of absence effective March 29, 2020. The employer had full-time work available to the claimant. The claimant took the leave of absence due to illness consistent with COVID-19. She remained off work due to continued illness until her separation. The issue of the claimant’s eligibility for benefits between March 29, 2020 through May 9, 2020 is addressed in the reference 01 decision/ See Appeal 20A-UI-07850-JC-T.

At the time of the hearing on August 17, 2020, the claimant remained on medical restrictions from employment by her treating physician.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able to and available for work effective May 10, 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 96.1A, subsection 38, paragraph "b", subparagraph (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(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

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.

In order for an individual to be eligible to receive benefits, she must be able to work, available for work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

The administrative law judge recognizes the claimant has filed her current claim due to hardship related to the COVID-19 pandemic. Here, the employer had work available for the claimant. However, the claimant informed the employer she was unable to work due to illness consistent with COVID-19 and remained ill until her separation on May 17, 2020. The employer agreed to allow the claimant time off for that reason. The claimant is considered to be on a leave of absence and is not available for work, according to Iowa law from May 10- 16, 2020 due to being on a leave of absence.

Because the claimant remains under doctor's care and has not been released to return to any work, benefits are denied effective May 17, 2020 due to the claimant being ill. Therefore, the claimant is not eligible for regular, state-funded unemployment insurance benefits.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he/she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

DECISION:

The unemployment insurance decision dated July 8, 2020, (reference 04) is modified with no change in effect. The claimant is not able and available for work effective May 10, 2020.

From May 10 through May 16, 2020, the claimant was on an approved leave of absence. Effective May 17, 2020, the claimant remains under a doctor's care and has not been released to return to any full-time work. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time as the claimant is able to and available for work.

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.
- If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** More information about how to apply for PUA is available online at:
www.iowaworkforcedevelopment.gov/pua-information



Jennifer L. Beckman
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August 24, 2020

Decision Dated and Mailed

jlb/sam