

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**BLYTHE LEE**  
Claimant

**MENARD INC**  
Employer

**APPEAL 21A-UI-23024-CS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/15/21  
Claimant: Appellant (4)**

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

**STATEMENT OF THE CASE:**

On October 16, 2021, the claimant/appellant filed an appeal from the October 7, 2021, (reference 01) unemployment insurance decision that denied benefits based on claimant not being able to work and available for work due to illness. The parties were properly notified about the hearing. A telephone hearing was held on December 8, 2021. Claimant participated at the hearing. Employer participated through Human Resource Coordinator, Ashley Vance. Exhibits A and B were admitted into the record. Administrative notice was taken of claimant's unemployment insurance benefits records.

**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 September 7, 1999. Claimant is a full-time Planagram Member. Claimant works Monday through Friday 5:30 a.m. through 2:30 p.m.

On August 15, 2021, claimant tested positive for COVID. Claimant was displaying symptoms which included her being tired and having congestion. The claimant's doctor excused her from work beginning August 15, 2021 and allowed her to return to work on August 19, 2021.

The employer had a mandatory policy that if an employee tested positive for COVID then they had to quarantine for 14 days from the date of the positive test and when the symptoms were no longer present. The employer notified claimant she could not return to work until August 30, 2021.

Claimant felt better and could have returned to work on August 19, 2021. Claimant returned to work on August 30, 2021.

## REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant was not able to and available for work beginning August 15, 2021 through August 18, 2021. Claimant was able to and available for work beginning on August 19, 2021.

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. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

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 this case the claimant tested positive for COVID. The claimant's doctor restricted claimant from working from August 15, 2021 until August 18, 2021. Since the claimant's doctor restricted her from working she is not considered available to work from August 15, 2021 until August 18, 2021, due to Iowa Admin. Code r. 871-24.23(35). Benefits are denied August 15, 2021, through August 18, 2021.

The claimant notified the employer she tested positive and the employer put claimant on a mandatory quarantine for 14 days. The claimant did not request the quarantine and the claimant would have went back to work on August 19, 2021, if the employer did not mandate that she quarantine. The claimant was not ill during this time period. Because it was the employer's choice that claimant was removed from work and not claimant's choice, the administrative law judge finds that claimant was not on a voluntary leave of absence. Claimant is otherwise able to and available for work beginning August 19, 2021. Benefits are allowed effective August 19, 2021, provided she is otherwise eligible.

**DECISION:**

The October 7, 2021, (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant was not able to work and available to work from August 15, 2021, through August 18, 2021. The claimant is available for work effective August 19, 2021. Benefits are allowed effective August 19, 2021.



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Carly Smith  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

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January 10, 2022  
Decision Dated and Mailed

cs/kmj