

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

CAROL COCHENOUR
Claimant

APPEAL NO: 20A-UI-05549-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KWIK TRIP INC
Employer

OC: 03/29/20
Claimant: Appellant (1R)

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 June 2, 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 July 10, 2020. The claimant participated in the hearing with Attorney Sam Degree. Patti Trebian, Store Leader, participated in the hearing on behalf of the employer.

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 requested and was given a leave of absence because of COVID-19 and she is the caretaker for her 83 year-old mother who suffers from COPD and congestive heart failure. The claimant took a leave of absence effective April 1, 2020.

The claimant voluntarily left her employment with this employer July 8, 2020. That issue has not yet been heard or adjudicated by the Benefits Bureau

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able and available for work and did take a leave of absence.

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 requested and was given a leave of absence to care for her mother during the COVID-19 virus. She is not considered able and available for work while on a leave of absence. Accordingly, benefits are denied.

The issue of the claimant's separation from this employer is remanded to the Benefits Bureau for an initial investigation and determination.

DECISION:

The June 2, 2020, reference 01, decision is affirmed. The claimant is not able and available for work and did take a leave of absence effective April 1, 2020. State unemployment insurance benefits are denied until the claimant has earned ten times her weekly benefit amount, provided she is otherwise eligible.

REMAND: The matter of the claimant's separation from this employer is remanded to the Benefits Bureau for an initial investigation and determination.



Julie Elder
Administrative Law Judge

July 20, 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>.