

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**ISABELLA D THARP**  
Claimant

**FAREWAY STORES INC**  
Employer

**APPEAL 20A-UI-09378-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/05/20**  
**Claimant: Respondent (2)**

Iowa Code section 96.4(3) – Eligibility – Able to and Available for Work

**STATEMENT OF THE CASE:**

On August 6, 2020, Fareway Stores Inc (employer/appellant) filed an appeal from the August 4, 2020 (reference 02) unemployment insurance decision that allowed benefits beginning July 5, 2020, based on a finding claimant was unemployed due to a short-term layoff.

A telephone hearing was held on September 22, 2020. The parties were properly notified of the hearing. Employer participated by Payroll Manager Maggie Worrall. Isabella Tharp (claimant/respondent) did not register a number for the hearing and did not participate.

Official notice was taken of the administrative record.

**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's first day of employment was August 7, 2019. Claimant is still employed by employer as a part-time grocery clerk. Claimant was on vacation out of state from June 28 until July 5, 2020. Employer informed her that she would either have to wear a mask for two weeks when she returned to work or quarantine for two weeks prior to returning to work. This was employer's policy at that time regarding employees who traveled out of state. Claimant declined to wear a mask for her first two weeks returning to work and instead to quarantine for two weeks. Claimant therefore did not return to work until July 21, 2020. Claimant made no mention of any medical condition that prevented her from wearing a mask.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the August 4, 2020 (reference 02) unemployment insurance decision that allowed benefits beginning July 5, 2020, based on a finding claimant was unemployed due to a short-term layoff is REVERSED. Claimant was not available for work and therefore ineligible

for benefits from the benefit week ending July 4, 2020 and continuing through the benefit week ending July 18, 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:

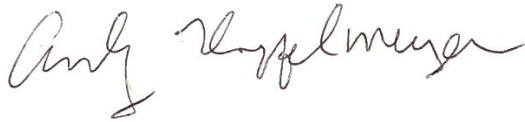
3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (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 made herself unavailable for work beginning June 28, 2020 and continuing through July 20, 2020, first due to being on vacation and subsequently due to choosing to self-quarantine for two weeks rather than wear a mask at work for two weeks. Employer's request that claimant wear a mask for two weeks upon returning to work was not unreasonable, given the circumstances, and there is no indication claimant could not work while wearing a mask. Instead, claimant simply chose to make herself unavailable for work for those two weeks. Claimant is therefore ineligible for benefits based on being unavailable for work.

While this decision denies regular, state benefits, the evidence indicates claimant may be eligible for federal Pandemic Unemployment Assistance (PUA). Further information on PUA, including how to apply, is set forth below.

**DECISION:**

The August 4, 2020 (reference 02) unemployment insurance decision that allowed benefits beginning July 5, 2020, based on a finding claimant was unemployed due to a short-term layoff is REVERSED. Claimant was not available for work and therefore ineligible for benefits from the benefit week ending July 4, 2020 and continuing through the benefit week ending July 18, 2020.



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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

September 25, 2020  
Decision Dated and Mailed

abd/mh

***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>.