

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

---

**AVIS L ALLEN**  
Claimant

**AMAZON.COM SERVICES INC**  
Employer

**APPEAL 22A-UI-10616-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/20/22**  
**Claimant: Appellant (5)**

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

**STATEMENT OF THE CASE:**

On April 27, 2022, Avis Allen (claimant/appellant) filed an appeal from the Iowa Workforce Development (IWD) decision dated April 20, 2022 (reference 02) that denied unemployment insurance benefits as of March 20, 2022 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was held on June 13, 2022. The parties were properly notified of the hearing. The claimant participated personally and was represented by Attorney MaKayla Augustine. Amazon.com Services Inc (employer/respondent) did not appear or participate. No exhibits were offered or admitted. 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 began working for employer in March 2021. Claimant was hired as a full-time picker. Claimant suffered an injury at work on March 26, 2021 while dismounting from a ladder. Claimant had surgery to repair the injury in August 2021. Claimant was released to return to work with restrictions at that time, including being limited to primarily seated work and being allowed to use crutches and a knee brace. Claimant's doctor placed her on permanent restrictions in January 2022. The restrictions essentially confine her to seated work.

Claimant is unable to perform the work of a picker within those restrictions, with or without a reasonable accommodation, and employer informed claimant it had no other positions available for her within those restrictions.

Claimant testified that she has been searching for work that she is able to do. However she has not reported work searches when filing her weekly claims for benefits. She also testified that she remains attached to employer and wishes to return to work there. She has not been terminated and she has not voluntarily separated from employer.

Claimant filed an original claim for benefits with an effective date of March 20, 2022. She filed weekly continued claims through April 23, 2022. Claimant testified that she has been searching for work which she is able to perform within her restrictions. The administrative record indicates claimant did not perform work searches as required in those weeks.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the decision dated April 20, 2022 (reference 02) that denied unemployment insurance benefits as of March 20, 2022 based on a finding claimant requested and was granted a leave of absence is MODIFIED with no change in effect.

Iowa Code section 96.4 provides in relevant part:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. a. 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 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

The administrative law judge further finds that claimant has not met her burden of proving she was able to work, available for work, and earnestly and actively seeking work during the weeks filed, from March 20, 2022 through April 23, 2022.

Claimant testified that she remains attached to employer and wishes to return to work there. However, employer has notified her that there are no positions available for her within her permanent restrictions. Furthermore, while claimant testified that she has been searching for work that she is able to do, she has not reported any work searches when filing her weekly claims for benefits during those weeks.

The administrative law judge finds claimant is essentially holding herself available for employer despite having no reasonable expectation of returning to work there within her permanent restrictions. Claimant has not shown she is a true participant in the labor market by proving she is able to work, available for work, and earnestly and actively seeking work and as such benefits must be denied during the weeks in question.

The decision is modified solely to reflect the finding that claimant is ineligible for benefits due to failing to establish she was able to work, available for work, and earnestly and actively seeking work during the weeks in question rather than based on specifically requesting and being granted a leave of absence during that period.

**DECISION:**

The decision dated April 20, 2022 (reference 02) that denied unemployment insurance benefits as of March 20, 2022 based on a finding claimant requested and was granted a leave of absence is MODIFIED with no change in effect. Benefits are denied effective March 20, 2022 due to claimant failing to establish she meets the requirements to be eligible for benefits during that period.



---

Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 478-3528

June 23, 2022  
Decision Dated and Mailed

abd/abd