

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CANDICE M OXLEY
Claimant

LECC
Employer

APPEAL NO. 21A-UI-09148-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (4)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 25, 2021 reference 03, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on June 16, 2021. Claimant participated personally. Employer participated by Bre Ties.

ISSUES:

Whether claimant is able and available for work?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant is employed as a full time child care provider for employer. On or around March 15, 2020 claimant was laid off from her full time job as employer saw a dramatic reduction in children enrolled after the local schools ended in person instruction for the year in Mid-March. Throughout this time claimant was able and available for work if work was available for claimant.

Claimant was gradually returned to her job in the middle of July and began working her full time hours again on August 16, 2021.

Claimant was off from work again in November and December for a pregnancy and she was not able and available for work during that period.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant has established the ability to work for the period between her filing of her original claim on April 5, 2020 and August 15, 2020. Benefits are allowed for that period.

DECISION:

The decision of the representative dated March 25, 2021, reference 03 is modified in favor of the claimant. Claimant is eligible to receive unemployment insurance benefits, effective April 5 through August 15, 2020, provided claimant meets all other eligibility requirements.



Blair A. Bennett
Administrative Law Judge

June 29, 2021
Decision Dated and Mailed

bab/mh