

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**MONTANA D BRAMMANN**  
Claimant

**APPEAL NO. 21A-UI-00083-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BEST BUY STORES LP**  
Employer

**OC: 04/19/20**  
**Claimant: Appellant (4)**

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Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence  
Iowa Code § 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated November 23, 2020 reference 02, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on February 2, 2021. Claimant participated and had witness Kristian Barnes. Employer participated by hearing representative Barbara Buss and witness Jason Thomas.

**ISSUE:**

Whether claimant is able and available for work?  
Whether claimant is on an approved leave of absence?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on February 27, 2020. Claimant asked for and was placed on maternity leave after that date. Said leave was to end after six weeks. Shortly before the six weeks were up, employer contacted claimant and asked claimant if she was planning on returning. Claimant was given the option of either going on furlough or having her maternity leave extended. Claimant chose to extend her maternity leave until May 28, 2020.

On May 28, 2020 claimant was informed that there were no hours available. Claimant was informed two weeks later that hours would be available on or after July 5, 2020. Claimant then informed employer that she was not able to work the hours that she'd been working since the time of her hire. Claimant said she had problems with daycare and work hours for her child's father. She said she'd be in contact with employer by July 19, 2020 if she was going to be able to work at all. Claimant had no further contact with employer, and employer listed claimant as a quit as of July 19, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

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.

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 not established the ability to work for the period between February 27, 2020 and May 28, 2020. For the period between May 28, 2020 and July 4, 2020 claimant was able and available for work, but employer did not have work for claimant. After July 4, 2020 claimant was able and available for work, but not at the hours she'd been working for employer, and the hours when work was available for her. Benefits are withheld from the time of filing an initial claim in this matter until May 28, 2020. Benefits shall be allowed effective May 29, 2020 provided claimant meets all other eligibility requirements.

**DECISION:**

The decision of the representative dated November 23, 2020, reference 02 is modified in favor of claimant. Claimant is eligible to receive unemployment insurance benefits, effective May 29, 2020, provided claimant meets all other eligibility requirements.



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Blair A. Bennett  
Administrative Law Judge

February 16, 2021  
Decision Dated and Mailed

bab/mh