

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DIAMOND M SPANN
Claimant

APPEAL NO. 20A-UI-05311-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MASTERBRAND CABINETS INC
Employer

OC: 03/29/20
Claimant: Appellant (4)

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 June 2, 2020 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on July 7, 2020. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

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 is a full time employee working in the hardware assembly division. During the times in question, claimant was pregnant.

On March 30, 2020 claimant visited her doctor. Her doctor asked claimant to take time off out of Covid concerns. This time off was extended during another doctor's visit.

Claimant returned to work on April 14, 2020.

During the week ending April 25, claimant took time off because of an illness. While claimant was ill, the plant announced a shutdown.

During the week ending May 2, 2020 the plant was shut down. Claimant was able and available to work that entire week. The plant reopened on May 6, 2020 and claimant returned to work.

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.

Iowa Admin. Code r. 871-24.23(35) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

With regard to state unemployment benefits, this matter must be divided into different time frames. For the period of March 30-April 10, 2020 claimant is not able and available for work as she was under doctor's orders not to go to work.

The week ending April 25, 2020 had claimant missing the week as she was ill and therefore not able and available for work. Even though employer shut down the plant toward the end of the

week, as claimant was not able to go to work, she is not able to receive unemployment benefits as her absence for illness preceded the shutdown.

Claimant was able and available for work for all other relevant time periods when she'd filed for benefits. The plant shutdown continued until Wednesday, May 6, and claimant is eligible for benefits during the period from April 26, 2020 through May 5, 2020.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits during a portion of time when you had applied for 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 due to disqualifying separations 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>. For those periods when claimant is/may be eligible for regular or PUA benefits, she would also be eligible for the Federal Pandemic Unemployment Compensation extra \$600 / week. There is no added application needed for this benefit.

DECISION:

The decision of the representative dated June 2, 2020, reference 01 is modified in favor of the appellant. Claimant is eligible to receive unemployment insurance benefits, effective April 26, 2020 through May 5, 2020 as claimant was able and available to work during that period and no work was available from her employer, provided claimant meets all other eligibility requirements.



Blair A. Bennett
Administrative Law Judge

July 14, 2020
Decision Dated and Mailed

bab/mh