

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CHASTITY BUSHONG
Claimant

HY-VEE INC
Employer

**APPEAL 21A-UI-04987-SC-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/15/20
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment

STATEMENT OF THE CASE:

On February 9, 2021, Chastity Bushong (claimant/appellant) filed an appeal from the February 2, 2021, reference 01, unemployment insurance decision that concluded she was not able to and available for work. After due notice was issued, a telephone hearing was held on April 16, 2021. The claimant participated. Hy-Vee, Inc. (employer) did not respond to the hearing notice and did not participate.

ISSUE:

Was the claimant able to work, available for work, and actively and earnestly seeking work effective November 15, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant works for the employer as a full-time Assistant Manager. On November 13, she tested positive for COVID-19. Under the employer's policy, she was not allowed to work for ten days. The claimant returned to work on November 23.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was temporarily unemployed and considered able to and available for work effective November 15, 2020. Benefits are allowed.

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 ...*

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". [Emphasis added.]

Iowa Code section 96.19(38)c provides:

Definitions.

38. Total and partial unemployment

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

The claimant was temporarily unemployed due to a public health emergency. The employer did not have work available to her under its policy. Therefore, the claimant is considered able to and available for work during that time. Benefits are allowed effective November 15, 2020.

DECISION:

The February 2, 2021, reference 01, unemployment insurance decision is reversed. The claimant was temporarily unemployed and considered able to work and available for work effective November 15, 2020. Benefits are allowed.



Stephanie R. Callahan
Administrative Law Judge

April 22, 2021
Decision Dated and Mailed

src/scn