

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BLANE L PENTON
Claimant

PILOT TRAVEL CENTERS LLC
Employer

**APPEAL 20A-UI-05968-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/26/20
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available – Benefits Eligibility Conditions

STATEMENT OF THE CASE:

Claimant filed an appeal from the June 2, 2020 (reference 02) unemployment insurance decision that found he was not able to or available for work and denied benefits from April 26, 2020 until May 23, 2020. The parties were properly notified of the hearing. A telephone hearing was held on July 13, 2020, at 11:05 a.m. Claimant participated. Employer participated through Randy Vandello, Travel Center General Manager. The parties waived 10-days' notice of the hearing. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant was able to or available for work from April 26, 2020 to May 23, 2020.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed an initial claim for benefits effective April 26, 2020. An unemployment insurance decision was issued on June 2, 2020 (reference 02), which found that claimant was not able to and available for work and, thus denied benefits, between April 26, 2020 and May 23, 2020. Claimant was employed as a full-time maintenance worker with Pilot Travel Centers until May 29, 2020. Claimant worked for employer from April 26, 2020 until May 23, 2020 except for a period of quarantine between May 5, 2020 and May 19, 2020. Claimant was directed by a physician to quarantine for 10 – 14 days beginning May 5, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not able to and available for work from April 26, 2020 until May 23, 2020. Benefits are denied.

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.

(2) *Available for work.* The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(1), (6) and (23) provide:

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

(1) An individual who is ill and presently not able to perform work due to illness.

(6) If an individual has a medical report on file submitted by a physician, stating such individual is not presently able to work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

Between April 26, 2020 and May 23, 2020, claimant was either employed to a degree to remove him from the labor market or he was directed by a physician that he was not able to work and needed to quarantine due to Covid-19. Claimant has not established that he was able to and available for work. Accordingly, claimant is not eligible for benefits.

NOTE TO CLAIMANT: This decision determines you are not eligible for regular unemployment insurance 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, but who are currently unemployed for reasons related to COVID-19 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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

DECISION:

The June 2, 2020 (reference 02) unemployment insurance decision is affirmed. Claimant was not able to and available for work between April 26, 2020 and May 23, 2020. Benefits are denied.



Adrienne C. Williamson
Administrative Law Judge
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July 21, 2020
Decision Dated and Mailed

acw/scn