

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SENADA OSMANOVIC
Claimant

MARTIN LUTHER HOME CORPORATION
Employer

APPEAL 20R-UI-10304-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/12/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 9, 2020, (reference 01) unemployment insurance decision that denied REGULAR unemployment insurance benefits. The parties were properly notified about the hearing. A telephone hearing was held on October 13, 2020. Claimant participated personally through an interpreter with CTS Language Link and was represented by attorney Zeke McCartney. Employer participated through director Janet Warren and was represented by Jennifer Groenwold.

ISSUES:

Is the claimant able to and available for work?
Is the claimant on a voluntary leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on September 18, 2003. Claimant last worked as a full-time laundry aide.

In March 2020, the United States declared a public health emergency due to the COVID 19 pandemic.

April 3, 2020, was claimant's last day of work. Claimant has diabetes and her doctor prohibited her from going to work due to her risk of complications if she contracted COVID 19. Claimant took a leave of absence.

On September 21, 2020, employer called claimant and told her that her position was no longer available.

As of the date of the hearing, claimant's provider had not released her to return to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work effective April 12, 2020.

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. 871-24.23(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.

Here, claimant was on a leave of absence due to underlying conditions that would put her at risk of complications if she contracted COVID 19. Claimant has not established she is able to and available for work as of the date of the hearing, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits from the effective date of the claim.

DECISION:

The June 9, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant is not available for work effective April 12, 2020, and regular, state-funded unemployment insurance benefits are denied. This decision will not negatively affect the decision allowing claimant Pandemic Unemployment Assistance benefits, which are not chargeable to employer.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

October 15, 2020
Decision Dated and Mailed

cal/sam