

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JAVIER LOPEZ
Claimant

WEST LIBERTY FOODS LLC
Employer

APPEAL 20A-UI-12406-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (4R)

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On September 18, 2020, Javier Lopez (claimant/appellant) filed an appeal from the September 11, 2020 (reference 03) unemployment insurance decision that denied benefits as of April 5, 2020 based on a finding claimant was unable to perform due to illness.

A telephone hearing was held on December 7, 2020. The parties were properly notified of the hearing. The claimant participated personally. West Liberty Foods LLC (employer/respondent) participated by HR Supervisor Karyn Goldensoph.

ISSUES:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer as a full-time cooler operator. Claimant's first day of employment was March 5, 2020. Claimant is still employed by employer.

Employer held claimant out of work from April 6, 2020 through May 2, 2020. This was due to employer's concern that claimant could have been exposed to COVID-19 due to he and his wife traveling out of state. Claimant was not ill and was otherwise able to and available for work during this period.

Claimant was subsequently unavailable for work from May 3, 2020 through May 30, 2020, due to his wife becoming ill with COVID-19. A doctor recommended claimant self-isolate and care for his wife during that time, which claimant did. Claimant returned to his full-time position after May 30, 2020, and remains in that position.

Employer paid claimant half of his wages in the form of short-term disability during the entire period he was away from work. This amounted to \$572.00 every two weeks. Claimant filed a weekly claim each week from the benefit week ending April 11, 2020 and continuing through the benefit week ending May 30, 2020. Claimant did not report any wages for the benefit week ending

April 11, 2020 and continuing through the benefit week ending May 9, 2020. Claimant did report wages for each of the subsequent three weeks claimed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the September 11, 2020 (reference 03) unemployment insurance decision that denied benefits as of April 5, 2020 based on a finding claimant was unable to perform due to illness is MODIFIED in favor of appellant as set forth below. The issue of whether claimant has been overpaid benefits is REMANDED to the Benefits Bureau for a fact-finding investigation and decision.

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".

Employer held claimant out of work from April 6, 2020 through May 2, 2020. This was due to employer's concern that claimant could have been exposed to COVID-19 due to he and his wife traveling out of state. Claimant was not ill and was otherwise able to and available for work during this period. He was not working solely due to employer's directive that he not do so. Claimant is therefore eligible for benefits during this time, provided he meets all other eligibility requirements.

Claimant was subsequently unavailable for work from May 3, 2020 through May 30, 2020, due to his wife becoming ill with COVID-19. A doctor recommended claimant self-isolate and care for his wife during that time, which claimant did. Claimant was not available for work during this period and is therefore ineligible for benefits. The administrative law judge notes that claimant may be eligible for Pandemic Unemployment Assistance (PUA) during this period. More information on PUA is set forth below.

Claimant returned to his full-time position after May 30, 2020, and remains in that position. Claimant is not available for work from that date and is therefore ineligible for benefits from that date, as he is working to such an extent as to be removed from the labor market.

Employer paid claimant half of his wages in the form of short-term disability during the entire period he was away from work. This amounted to \$572.00 every two weeks. Claimant filed a weekly claim each week from the benefit week ending April 11, 2020 and continuing through the benefit week ending May 30, 2020. Claimant did not report any wages for the benefit week ending April 11, 2020 and continuing through the benefit week ending May 9, 2020. Claimant did report wages for each of the subsequent three weeks claimed. Because it appears claimant may not have reported wages earned, the issue of overpayment must be addressed.

DECISION:

The September 11, 2020 (reference 03) unemployment insurance decision that denied benefits as of April 5, 2020 based on a finding claimant was unable to perform due to illness is MODIFIED in favor of appellant as set forth above.

REMAND:

The issue of whether claimant has been overpaid benefits is REMANDED to the Benefits Bureau for a fact-finding investigation and decision.



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

December 15, 2020
Decision Dated and Mailed

abd/mh

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.