

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

STEVE R YOUNG

Claimant

APPEAL NO. 21A-UI-02846-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CORALVILLE LODGING INC

Employer

OC: 11/01/20

Claimant: Appellant (3)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 6, 2021, reference 01, decision that denied benefits for the period of November 1, 2020 through December 12, 2020, based on the deputy's conclusion that the claimant was under the care of a doctor and unable to work during that period. After due notice was issued, a hearing was held on March 11, 2021. Claimant participated. Shaleia Murray represented the employer. Exhibit A, the online appeal, was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A. The administrative law judge left the record open for the limited purpose of allowing the claimant to submit medical documentation. The claimant submitted five medical documents that the administrative law judge marked B through F. Exhibit C through F were received into evidence.

ISSUES:

Whether the claimant was able to work and available for work within the meaning of the law during the period of November 1, 2020 through December 19, 2020.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed by Coralville Lodging, Inc. as a full-time night auditor at the Fairfield Inn and Suites in Coralville. The claimant began the employment in July 2019. On Wednesday, October 28, 2020, the claimant twisted his knee while was getting into his car away from the workplace. The claimant went to the emergency room on that same day. The claimant was released to return to the employment with restrictions that he only work sedentary work and that he wear a left brace when he ambulated.

On October 30, 2020, the claimant returned to the emergency room. In connection with the visit to the emergency room, the provider advised the claimant to go off work for one to two weeks while he recovered from his knee injury and prescribed hydrocodone for the claimant's knee pain. In the October 30, 2020 medical document, the doctor indicated that the claimant could return to work in a week or two when he felt he was able to ambulate without pain.

On November 4, 2020, a nurse practitioner took the claimant off work until after the claimant was evaluated by an orthopedic specialist on November 23, 2020.

The claimant established an original claim for benefits that was effective November 1, 2020. Iowa Workforce Development set the claimant's weekly benefit amount at \$325.00. The claimant made weekly claimant for the seven weeks between November 1, 2020 and December 19, 2020.

On November 23, 2020, the claimant was evaluated by the orthopedic specialist, who released the claimant to work only two to three days for week for the next two weeks. The claimant remained entirely off work through the end of that week. During the weeks that ended December 5 and December 12, 2020, the claimant worked reduced hours, two to three days per week, pursuant to his doctor's advice.

The claimant returned to the full-time employment effective December 13, 2020.

The claimant discontinued his claim for benefits after the week that ended December 19, 2020.

The employer continued at all relevant times to have the claimant's full-time regular duties available.

REASONING AND CONCLUSIONS OF LAW:

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(2) 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.

(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 provides, in pertinent part, as follows:

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.

...

(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.

...

(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.

...

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

...

(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.

The claimant was not able to work and/or not available for work within the meaning of the law during the claim weeks between November 1, 2020 and December 19, 2020 and is not eligible for benefits during weeks. During the week that ended November 7, 2020 through the week that ended November 28, 2020, the claimant was off work due to his injury. During the weeks that ended December 5 and 12, 2020, the claimant worked reduced hours due to his injury. During the week that ended December 19, the claimant returned to his full-time or near full-time employment and earned wages that exceeded his weekly benefit amount plus \$15.00.

DECISION:

The January 6, 2021, reference 01 is modified adverse to the claimant/appellant. The claimant was not able and/or not available for work within the meaning of the law during the period of November 1, 2020 through December 19, 2020 and is not eligible for benefits for that period.



James E. Timberland
Administrative Law Judge

March 19, 2021
Decision Dated and Mailed

jet/kmj

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA for the affected period, you will be required to repay the benefits you have received.**