

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KASSADIE R MINK
Claimant

**JOHNSTON COMMUNITY SCHOOL
DISTRICT**
Employer

**APPEAL 21A-UI-12977-AD-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/07/21
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Code § 96.1A(37) – Total, partial unemployment
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On May 26, 2021, Kassadie Mink (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated May 19, 2021 (reference 01) that denied benefits as of March 7, 2021 based on a finding claimant was unable to perform work due to illness.

A telephone hearing was held on August 3, 2021. The parties were properly notified of the hearing. Claimant participated personally. Johnston Community School District (employer/respondent) participated by HR Assistant Melissa Jacobson. Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant totally, partially, or temporarily unemployed?
- II. Is the claimant able to and available for work?
- III. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

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

Claimant began working for employer on September 28, 2019 as a swim instructor. Claimant last performed work there in October or November 2020. The pool was closed at that time due to the pandemic. Because the pool was closed, claimant determined to move to full-time employment with her other employer at that time, Torrid LLC, rather than continuing to pursue employment with Johnston Schools. Claimant has been employed full-time with Torrid LLC since then, except for a two-week period when it held her out of work as a precaution. Claimant was held out from March 2 until March 19, 2021. Claimant was not too ill to work and was available for work during that period. Claimant filed a claim for benefits in the weeks ending March 6, March 13, and March 20, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated May 19, 2021 (reference 01) that denied benefits as of March 7, 2021 based on a finding claimant was unable to perform work due to illness is REVERSED. Claimant is eligible for benefits in the weeks filed. The separation from employment was not disqualifying, and employer shall not be charged for benefits paid.

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 Code section 96.1A(37) provides:

"Total and partial unemployment".

a. An individual shall be deemed "*totally unemployed*" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

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.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge finds claimant was able and available for work in the weeks filed as is therefore eligible for benefits in those weeks. The administrative law judge further finds claimant's separation from employment was not disqualifying, as she left to accept and work in other or better employment. Employer shall not be charged for benefits paid.

DECISION:

The decision dated May 19, 2021 (reference 01) that denied benefits as of March 7, 2021 based on a finding claimant was unable to perform work due to illness is REVERSED. Claimant is eligible for benefits in the weeks filed. The separation from employment was not disqualifying, and employer shall not be charged for benefits paid.



Andrew B. Duffelmeyer
Administrative Law Judge
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Fax (515) 478-3528

August 9, 2021
Decision Dated and Mailed

abd/lj