

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KATIANA F POWELL
Claimant

BEATON INC
Employer

APPEAL 20A-UI-11273-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/05/20
Claimant: Appellant (4)

Iowa Code § 96.4(3) - Able and Available
Iowa Code § 96.5(3)a – Failure to Accept Work

STATEMENT OF THE CASE:

On September 13, 2020, Katiana Powell (claimant/appellant) filed an appeal from the September 9, 2020 (reference 03) unemployment insurance decision that denied benefits based on a finding that claimant refused recall to suitable work.

After due notice was issued, a telephone conference hearing was held on November 4, 2020. Claimant participated personally. Beaton Inc (employer/respondent) did not register a number for the hearing and did not participate.

Official notice was taken of the administrative record.

ISSUES:

Was a suitable offer of work made to the claimant?

If so, did the claimant fail to accept and was the failure to do so for a good cause reason?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds:

Claimant began working for employer on February 10, 2020. Claimant was employed full-time as a cashier. The last day claimant worked on the job was March 5, 2020. At that time, claimant took approximately three weeks of vacation. During that time, her doctors recommend she not return to work due to her pregnancy and a medical condition that made her more susceptible to COVID-19.

Employer contacted claimant at some point in April 2020 to see if she was going to return to work. She informed employer she could not return for the reasons above. Claimant has not returned to work with employer since then, nor has she worked anywhere else. She is still waiting for her doctors to release her to return to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the September 9, 2020 (reference 03) unemployment insurance decision that denied benefits based on a finding that claimant refused recall to suitable work is MODIFIED in favor of appellant.

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 § 96.5(3)a provides:

An individual shall be disqualified for benefits:

3. Failure to accept work. If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the department or to accept suitable work when offered that individual. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.24(4) provides:

(4) Work refused when the claimant fails to meet the benefit eligibility conditions of Iowa Code section 96.4(3). Before a disqualification for failure to accept work may be imposed, an individual must first satisfy the benefit eligibility conditions of being able to work and available for work and not unemployed for failing to bump a fellow employee with less seniority. If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant shall not be disqualified for refusal since the claimant is not available for work. In such a case it is the availability of the claimant that is to be tested. Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases.

The offer may have been suitable, but the reason for the failure to accept the work was because claimant was not able to or available for work. Therefore, the claimant is not disqualified from receiving benefits. However, because she was not able to or available for work from the benefit week ending March 14, 2020 and continuing to date, she is not eligible for benefits during that

time. The period of ineligibility will continue until such time as claimant makes herself available for work.

While this decision denies regular, state benefits, the evidence indicates claimant may be eligible for federal Pandemic Unemployment Assistance (PUA). Further information on PUA, including how to apply, is set forth below.

DECISION:

The September 9, 2020 (reference 03) unemployment insurance decision that denied benefits based on a finding that claimant refused recall to suitable work is MODIFIED in favor of appellant.

The reason for the failure to accept the work was because claimant was not able to or available for work. Therefore, the claimant is not disqualified from receiving benefits. However, because she was not able to or available for work from the benefit week ending March 14, 2020 and continuing to date, she is not eligible for benefits during that time. The period of ineligibility will continue until such time as claimant makes herself available for work.



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

November 10, 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 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>.