

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NADIA WILLIAMS
Claimant

DM SERVICES INC
Employer

APPEAL 20R-UI-10376-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Eligibility – Able to and Available for Work
Iowa Admin. Code r. 871-24.23(10) – Eligibility – Leave of Absence
Iowa Code § 96.6(2) – Filing – Timely Appeal
Iowa Admin. Code r. 871-24.35 – Filing

STATEMENT OF THE CASE:

On May 19, 2020, Nadia Williams (claimant/appellant) filed an appeal from the May 15, 2020 (reference 01) unemployment insurance decision that denied benefits as of March 29, 2020 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was set for July 6, 2020 at 8 a.m. Claimant did not register a number for the hearing and a default order was entered accordingly. Claimant appealed to the Employment Appeal Board, which remanded for another hearing.

A telephone hearing was held on October 12, 2020. The parties were properly notified of the hearing. Claimant participated personally. Employer did not register a number for the hearing and did not participate.

Claimant's exhibits 1 and 2 were admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the appeal timely?
- II. Is the claimant able to and available for work?
- III. Is the claimant on an approved leave of absence?

FINDINGS OF FACT:

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

Claimant began working for employer in July 2014. Claimant was employed part-time in customer service. She worked 24 hours per week in this position. On March 23, 2020, employer issued a memo regarding pandemic-related guidelines and the potential to work from home. Claimant

went home on March 24 to run a company-mandated test on her home internet to see if she could work from home. However, the test determined claimant's home internet was not sufficient to work from home.

She continued working at employer's offices through March 30, 2020. On that date she was becoming increasingly concerned with continuing to work at employer's offices. She called her doctor the following day, who advised due to her age and health issues that she not continue working at employer's offices and instead work from home if possible. Claimant contacted employer's HR representative, who told her to let her supervisor know she was quarantining and to contact employer regarding an intended return date. Claimant subsequently ran another home internet test which found she could work from home. She began working from home beginning April 27, 2020.

Claimant's home internet went out for a week due to the derecho. The internet was out beginning August 10 and continuing until August 17, 2020. Claimant contacted employer to see if she could come into employer's office to work during that time. She was informed she could not. Claimant returned to her usual work from home routine on August 17, 2020.

The Unemployment Insurance Decision was mailed to claimant at the above address on May 15, 2020. The decision indicates it becomes final unless an appeal is postmarked or received by May 25, 2020. Claimant appealed the decision via mail on May 19, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's appeal was timely. The May 15, 2020 (reference 01) unemployment insurance decision that denied benefits as of March 29, 2020 based on a finding claimant requested and was granted a leave of absence is MODIFIED in favor of appellant.

Iowa Code § 96.6(2) provides, in pertinent part: "[u]nless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision." Claimant appealed the decision within the ten-day timeframe. The appeal is therefore timely, and the administrative law judge has jurisdiction to address the underlying issues.

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.

Claimant was not available for work from the benefit week ending April 4, 2020 and continuing through the benefit week ending April 25, 2020, as she requested and was granted a leave of absence. She is therefore ineligible for benefits during this time. However, she was available for work from the benefit week ending May 2, 2020 and continuing to date and is eligible for benefits during that time, so long as she meets all other eligibility requirements. Specifically, during the week ending August 15, 2020, claimant was able and available for work but employer held her out of work. Claimant was not working that week due to no fault of her own.

DECISION:

The claimant's appeal was timely. The May 15, 2020 (reference 01) unemployment insurance decision that denied benefits as of March 29, 2020 based on a finding claimant requested and was granted a leave of absence is MODIFIED in favor of appellant. Claimant is not available for work and not eligible for benefits from the benefit week ending April 4, 2020 and continuing through the benefit week ending April 25, 2020. However, she was available for work from the benefit week ending May 2, 2020 and continuing to date and is eligible for benefits during that time, so long as she meets all other eligibility requirements.



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

October 20, 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>.