

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JENNIFER A SCHIERLING**  
Claimant

**TMONE LLC**  
Employer

**APPEAL 21A-UI-02712-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/25/20**  
**Claimant: Respondent (2)**

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Iowa Code section 96.4(3) – Able to and Available for Work

**STATEMENT OF THE CASE:**

On January 8, 2021, TMONE LLC (employer/appellant) filed an appeal from the December 31, 2020 (reference 01) unemployment insurance decision that allowed benefits beginning October 25, 2020 based on a finding claimant was able to and available for work.

A telephone hearing was held on March 10, 2021. The parties were properly notified of the hearing. Jennifer Schierling (claimant/respondent) did not register a number for the hearing and so did not participate. TMONE participated by Senior Payroll Admin Ciera Turner.

Employer's exhibit 1 was admitted. Official notice was taken of the administrative record.

**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's first day of employment was December 12, 2016. Claimant is still employed by employer as a full-time agent. Claimant was held out of work from October 26-28 due to potentially being exposed to COVID-19. She returned to work on October 29, 2020 in the same hours and pay. She was paid for each of the days she was out. There were no other periods when work was unavailable to her or she was unavailable for work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the December 31, 2020 (reference 01) unemployment insurance decision that allowed benefits beginning October 25, 2020 based on a finding claimant was able to and available for work is REVERSED. Claimant was employed to such an extent as to be unavailable for work and so is ineligible for benefits effective October 25, 2020.

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(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(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.

The administrative law judge finds claimant was employed to such an extent as to be removed from the labor market and so is ineligible for benefits effective October 25, 2020.

**DECISION:**

The December 31, 2020 (reference 01) unemployment insurance decision that allowed benefits beginning October 25, 2020 based on a finding claimant was able to and available for work is REVERSED. Claimant was employed to such an extent as to be unavailable for work and so is ineligible for benefits effective October 25, 2020.



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

March 12, 2021  
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>.