

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**HANNAH QUEWEA**  
Claimant

**TPI IOWA LLC**  
Employer

**APPEAL 21A-UI-01091-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/17/20**  
**Claimant: Appellant (1)**

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Iowa Code 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

On December 5, 2020, the claimant filed an appeal from the December 1, 2020 (reference 01) unemployment insurance decision that denied benefits from May 17, 2020, through May 30, 2020, based upon a determination that she was unable to work due to illness. The parties were properly notified of the hearing. A telephonic hearing was held on February 15, 2021. The claimant, Hannah Quewea, participated. The employer, TPI Iowa, L.L.C., registered a participant but did not answer when called for the hearing and therefore did not participate.

**ISSUE:**

Was the claimant able to work and available for work from May 17, 2020, through May 30, 2020?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a production employee, beginning in February 2016. Sometime in April 2020, the employer had all the employees take COVID-19 tests. Claimant tested positive for COVID-19 and was out of work for a number of weeks. She testified that the employer called her numerous times to return to work, but she was still sick and was not able to return. Claimant's employment ended in June 2020, after she was unable to return to work due to illness.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was not able to work for the two weeks in question. Benefits are withheld from May 17, 2020, through May 30, 2020.

Iowa Code § 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(1)a 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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

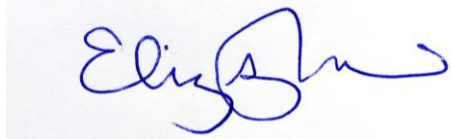
a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

To be able to work, "[a]n individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood." *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1). "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides." *Sierra* at 723. The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that "[i]nsofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

In this case, Claimant offered credible testimony regarding her medical condition during May 2020. Claimant explained that she was sick due to COVID-19 and was not able to work, despite her employer's pleas to return to the workforce. Therefore, this administrative law judge finds Claimant was not eligible for benefits from May 17, 2020, through May 30, 2020, due to illness.

**DECISION:**

The December 1, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant was not able to work from May 17, 2020, through May 30, 2020, due to personal illness. Therefore, benefits are withheld for that two-week period.



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February 26, 2021  
Decision Dated and Mailed

lj/mh