

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CINDY GUHL**  
Claimant

**THE UNIVERSITY OF IOWA**  
Employer

**APPEAL 21A-UI-04748-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/06/20**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

On February 4, 2021, the claimant, Cindy Guhl, filed an appeal from the February 1, 2021 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was not able to and available for work. The parties were properly notified of the hearing. A telephonic hearing was held on Friday, April 9, 2021. The claimant, Cindy Guhl, participated. The employer, The University of Iowa, participated through Jessica J. Wade, HR Business Analyst. No exhibits were offered or admitted into the record. The administrative law judge took official notice of the administrative record. During the hearing, the parties agreed to waive notice on the issue of whether claimant Cindy Guhl's claim could be backdated.

**ISSUES:**

Can claimant's claim be backdated?  
Is 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 began her full-time employment as a custodian with the employer on February 5, 2018. Claimant remains employed with this employer in this capacity.

During 2020, the employer's Department of Student Life asked all employees to take one week of temporary layoff as a budgetary cost-savings measure. As an employee in this department, claimant was subject to this one week temporary layoff. Claimant chose to take her layoff during the week of November 29 through December 5, 2020. Claimant did not work any hours that week.

Claimant returned to work on December 6, 2020, and has been working full-time hours for the employer ever since. Upon her return, claimant also opened her claim for unemployment insurance benefits, because she was not familiar with the unemployment claim-filing process.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

Iowa Code section 96.6(1) provides:

1. Filing. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

Iowa Admin. Code r. 871-24.2(1)h(1) and (2) provide:

### **Procedures for workers desiring to file a claim for benefits for unemployment insurance.**

(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

*h.* Effective starting date for the benefit year.

(1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual files a claim for benefits.

(2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:

1. The failure of the department to recognize the expiration of the claimant's previous benefit year;
2. The claimant filed an interstate claim against another state which has been determined as ineligible.

After an agency and legislative rulemaking process, effective July 12, 2017, Iowa Admin. Code r. 871-24.2(1)h(1) and (2) allows backdating for only the two reasons cited above. Neither of those reasons applies in this case. In this case, claimant is seeking backdating because she simply was not aware that she needed to open her claim for benefits at the beginning of the week and then file a weekly continued claim for benefits at the end of the week. While the administrative law judge is sympathetic to claimant's situation, the law does not permit backdating under this scenario. Accordingly, the backdating request is denied.

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 96.1A, subsection 37, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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.

From December 6, 2020, forward, claimant has been working for the employer. Claimant is fully employed and has been working to such a degree that she has been removed from the labor market effective December 6, 2020. Therefore, benefits must be denied, as claimant is not able to and available for work.

**DECISION:**

The February 1, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant is not available for work and is not eligible for benefits effective December 6, 2020.



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

April 14, 2021  
Decision Dated and Mailed

lj/ol