

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JOHN L TERRY**  
Claimant

**CHEWZN VENTURES LLC**  
Employer

**APPEAL 20R-UI-11454-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/29/20**  
**Claimant: Respondent (2)**

Iowa Code § 96.4(3) – Able to and Availability for Work  
Iowa Code § 96.19(38) – Total, Partial and Temporary Unemployment  
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence

**STATEMENT OF THE CASE:**

On June 19, 2020, the employer filed an appeal from the June 17, 2020 (reference 01) unemployment insurance decision that allowed benefits to the claimant finding that he was on a short-term layoff. The parties were properly notified about the hearing. A telephone hearing was scheduled for July 23, 2020. The employer, Chewzn Ventures LLC, did not participate in the hearing and a default decision was issued on July 30, 2020. The employer filed an appeal to the Employment Appeal Board (EAB). The EAB issued an order on September 9, 2020 remanding the matter for a new hearing with due notice issued to both parties. Another hearing was scheduled for October 26, 2020 and due notice was issued to both parties. The claimant participated personally in the October 26, 2020 telephone hearing. The employer participated through witnesses Jenny Novick and Gareth Watkins during the October 26, 2020 hearing. Employer's Exhibits 1 and 2 were admitted. The hearing was consolidated with Appeal No. 20A-UI11230-DB-T. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

**ISSUES:**

Was the claimant able to and available for work?  
Was the claimant totally, partially or temporarily unemployed?  
Was the claimant on an approved leave of absence?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for this employer as of February 19, 2018 when Ms. Novick purchased the business. Claimant had worked for the previous owner since October 21, 2015. He worked as a full-time service technician. His job duties included entering personal residences to make repairs to appliances. The claimant also worked on repairs in the shop on occasion. His last day physically worked on the job was March 27, 2020.

Claimant is a smoker and has a history of pneumonia. When the COVID-19 pandemic occurred in March of 2020, he did not feel comfortable continuing with his job duties. Ms. Novick spoke to the claimant and advised him that he could take a voluntary furlough if he wanted to do so. The claimant was on a voluntary leave of absence beginning March 30, 2020 through April 19, 2020 when he texted Ms. Novick stating that he was quitting.

## **REASONING AND CONCLUSIONS OF LAW:**

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", subparagraph (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 § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work, or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

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.

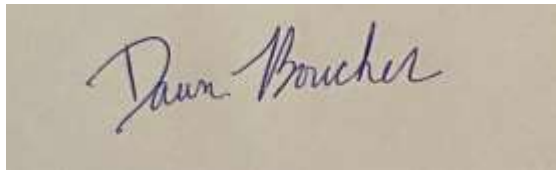
(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

In this case, the claimant was not partially unemployed or temporarily unemployed due to lack of work. He was granted a leave of absence from March 30, 2020 through April 19, 2020. As such, the period of time he was not working is deemed to be a period of voluntary unemployment. Claimant has not established that he was able to and available for work pursuant to Iowa Code § 96.4(3) during that time period. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits from the benefit week beginning March 29, 2020 through the benefit week-ending April 18, 2020, as he was on a leave of absence.

**DECISION:**

The June 17, 2020 (reference 01) unemployment insurance decision is reversed. The claimant was not able to work and available for work effective March 29, 2020 through April 18, 2020, as he was on a voluntary leave of absence. Unemployment insurance benefits funded by the State of Iowa are denied from March 29, 2020 through April 18, 2020.

*This decision denies unemployment insurance benefits funded by the State of Iowa. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits. See Note to Claimant below.*

A handwritten signature in blue ink that reads "Dawn Boucher". The signature is written in a cursive style and is positioned above a horizontal line.

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Dawn Boucher  
Administrative Law Judge

October 28, 2020  
Decision Dated and Mailed

db/sam

**Note to Claimant**

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.

- If you do not qualify for regular unemployment insurance benefits funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance ("PUA") section of the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act") that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**  
For additional information on how to apply for PUA go to:  
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:  
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to "Submit Proof Here." You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:  
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.