

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

DELFINA CASILLAS
Claimant

APPEAL NO: 20A-UI-08431-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC
Employer

OC: 04/05/20
Claimant: Appellant (4)

871 IAC 24.23(10) – Leave of Absence
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 8, 2020, reference 01 decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 28, 2020. The claimant participated in the hearing with CTS Language Link Interpreter Elaine (11105). Melissa Stittler, Human Resources Manager, participated in the hearing on behalf of the employer.

ISSUES:

The issue is whether the claimant is able and available for work and whether she is on a leave of absence.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was furloughed by the employer due to a lack of work from April 7 through June 14, 2020. On June 15, 2020, she requested and was given a leave of absence and went on FMLA because she was ill. The claimant returned to work August 3 through August 7, 2020, and then went back on her leave of absence. She plans to return to work August 31, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able and available for work and did take a leave of absence beginning June 15, 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(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.

The claimant requested and was given a leave of absence due to illness beginning June 15, 2020. She is not considered able and available for work during her leave of absence. Accordingly, benefits are denied effective the week ending June 20, 2020.

DECISION:

The July 8, 2020, reference 01, decision is modified in favor of the claimant. The claimant is not able and available for work and did take a leave of absence effective June 15, 2020. Benefits are withheld until such time as the claimant makes herself available for work to the extent she was available during the base period history and the employer has no comparable, suitable work available.



Julie Elder
Administrative Law Judge

August 31, 2020
Decision Dated and Mailed

je/scn

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify 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 under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.