

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JANE M PEPPERLING
Claimant

WARTBURG COLLEGE
Employer

APPEAL 20A-UI-10445-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/14/20
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

On August 31, 2020, Jane Pepperling (claimant/appellant) filed an appeal from the August 27, 2020 (reference 01) unemployment insurance decision that denied benefits as of June 14, 2020 based on a finding claimant was not able to perform work due to illness.

A telephone hearing was held on October 13, 2020. The parties were properly notified of the hearing. The claimant participated personally. Wartburg College (employer/respondent) participated by Director of HR Jamie Hollaway.

Employer's Exhibits 1 and 2 were admitted. Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

Is 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 works for employer as a full-time cook. Claimant's first day of employment was March 21, 2016. Claimant requested and was granted a leave of absence from March 6 until June 15, 2020. Claimant was then furloughed from June 15 until August 9. She was able and available for work during that time. Claimant became ill at work on August 17 and was sent home. She was too ill to work until September 11, 2020. She has been back in her regular position with employer since that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the August 27, 2020 (reference 01) unemployment insurance decision that denied benefits as of June 14, 2020 based on a finding claimant was not able to perform work due to illness is REVERSED. Claimant is eligible for benefits as set forth below.

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. 871-24.22(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.

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.

Iowa Admin. Code r. 871-24.23(35) provides:

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

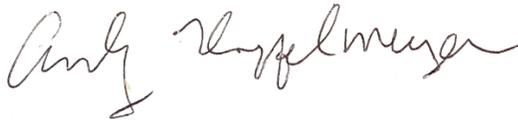
(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Claimant is eligible for benefits from the benefit week ending June 20, 2020 and continuing through the benefit week ending August 15, 2020. This is because she was furloughed during this time but otherwise able and available for work.

She was not able and available for work from the benefit week ending August 22 and continuing through the benefit week ending September 12, 2020, as she was ill and unable to work during that time. She is not eligible for benefits after that date, as she was working full-time and thus not available for work.

DECISION:

The August 27, 2020 (reference 01) unemployment insurance decision that denied benefits as of June 14, 2020 based on a finding claimant was not able to perform work due to illness is REVERSED. Claimant is eligible for benefits as set forth above.



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

October 15, 2020
Decision Dated and Mailed

abd/scn

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 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.