

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**RABEI M ALI**  
Claimant

**APPEAL NO. 20A-UI-06765-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**STAFF MANAGEMENT SOLUTIONS LLC**  
Employer

**OC: 05/03/20**  
**Claimant: Appellant (1)**

Iowa Code Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

Rabei Ali filed a timely appeal from the June 19, 2020, reference 01, decision that denied benefits for the three-week period of May 3, 2020 through May 23, 2020, based on the deputy's conclusion that Mr. Ali was unavailable for work during the major portions of those weeks due to personal reasons and obligations. After due notice was issued, a hearing was held on July 29, 2020. Mr. Ali participated. The employer did not provide a telephone number for the employer and did not participate. Arabic-English interpreter Pchoni Butko of CTS Language Link assisted with the hearing. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

**ISSUES:**

Whether the claimant was able to work and available for work during the three-week period of May 3-23, 2020.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Rabei Ali established an original claim for benefits that was effective May 3 2020. Iowa Workforce Development set his weekly benefit amount at \$252.00. Mr. Ali made weekly claims for the weeks that ended May 9, May 16 and May 23, 2020 and then discontinued his claim for benefits. Mr. Ali is employed by Staff Management Solutions, L.L.C. as a full-time line production/packaging laborer.

In March 2020, there was a workplace concern about potential exposure to COVID-19 after a coworker collapsed in the workplace. The employer sent Mr. Ali home for the day, but recalled him to the employment the following day after the coworker's health issue was determined not to be COVID-19 related. The employer required employees to wear masks to hinder the spread of COVID-19.

On April 25, 2020, the employer notified Mr. Ali that a coworker had tested positive for COVID-19. The employer sent Mr. Ali home and recalled him to the employment the following day.

Mr. Ali elected not to return to work at that time out of concern for the COVID-19 virus. Mr. Ali is from Saudi Arabia. Mr. Ali was concerned about COVID-19 in part because one or more family members in Saudi Arabia has passed away due to COVID-19. Mr. Ali has a baby and another young child who is not yet school age. The children stay with Mr. Ali's wife when Mr. Ali is at work. Mr. Ali's decision to remain off work for three weeks was not based on advice from a physician. Neither Mr. Ali nor anyone else in his household contracted COVID-19. The employer continued to have full-time work available for Mr. Ali. Mr. Ali continued off work until May 26, 2020, at which time he returned to the full-time employment.

## **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", 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(2) 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.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(10) and (29) 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.

...

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

Iowa Code section 96.19(38) provides:

"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.

In connection with the Covid-19 pandemic and passage of the Public Law 116-136, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Iowa Workforce Development published on its website a list of Covid-19-related scenarios under which a claimant would be eligible for unemployment insurance benefits. The scenarios create limited and temporary exceptions to the able and available requirements set forth at Iowa Code section 96.4(3). The scenarios include circumstances wherein a worker is exposed to COVID-19 and is then directed to quarantine. See <https://www.iowaworkforcedevelopment.gov/COVID-19>, updated March 30, 2020.

If a claimant individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. Iowa Code section 96.7(2)(a)(2)(a).

In response to the economic impact of the COVID-19 pandemic, Iowa Workforce Development published on its website Unemployment Insurance Guidance for Employers and Workers. As part of that publication, the Agency announced that claims filed as a direct or indirect result of Covid-19 would not be charged to employers. See <https://www.iowaworkforcedevelopment.gov/COVID-19#ife>, Information for Employers.

Mr. Ali was not available for work within the meaning of the law during the three weeks between May 3, 2020 and May 23, 2020. The employer had full-time work available to him during that period. The employer had not directed Mr. Ali to quarantine during any portion of that period. A doctor had not advised Mr. Ali to quarantine during that period. Mr. Ali's fear about potential COVID-19 exposure did not fall within any of the COVID-19 exceptions to the able and available requirements. Mr. Ali is not eligible for benefits for the three-week period between May 3, 2020 and May 23, 2020.

**DECISION:**

The June 19, 2020, reference 01, decision is affirmed. The claimant was not available for work during the period of May 3, 2020 through May 23, 2020 and is not eligible for benefits for those weeks.

*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. *If this decision becomes final or if you are not eligible for Pandemic Unemployment Assistance (PUA), you will have an overpayment of benefits that you will be required to repay.* Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, 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>.



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James E. Timberland  
Administrative Law Judge

September 9, 2020  
Decision Dated and Mailed

jet/scn