

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

JANETTE M ALLEN
Claimant

APPEAL NO: 20A-UI-10546-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SHEARERS FOODS BURLINGTON LLC
Employer

OC: 04/12/20
Claimant: Appellant (4)

Section 96.4-3 – Able and Available for Work
871 IAC 24.23(35) – Able and Available – Medical
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 16, 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 October 20, 2020. The claimant participated in the hearing. The employer provided a telephone number prior to the hearing but was not available at that number at the time of the hearing. Department's Exhibit D-1 was admitted into evidence.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last known address of record on June 16, 2020. The claimant did not receive the decision. She called the Dubuque Iowa Workforce Development office and was told she needed to file an appeal and did so on August 31, 2020. Because the claimant did not receive the representative's decision, the administrative law judge finds the claimant's appeal is timely.

The claimant works as a full-time production worker for Shearers Foods Burlington. On April 18, 2020, the claimant was ill and asked the employer if she could self-quarantine. Her doctor excused her until May 1, 2020, but she still did not feel well and consequently did not return until May 7, 2020. She was considered to be on a leave of absence from April 18 through May 7, 2020.

On the week ending July 25, 2020, the claimant's line was laid off for one week. On August 22, 2020, the claimant was exposed to COVID-19 by a family member who tested positive for the virus. On August 24, 2020, the claimant had a headache and sore throat and self-quarantined from August 24 through September 14, 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 with the exception of the week ending April 25 and the week ending July 25, 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(26) 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.

In order to be eligible for benefits, a claimant must be able and available for work. If a claimant suffers a non-work related illness or injury, and is placed under restrictions or other limitations by her treating physician, the employer is not obligated to accommodate those restrictions. (Emphasis added). If the claimant returns to work after receiving a full medical release from the treating physician and the employer has no suitable work available at that time, the claimant would generally be eligible for unemployment benefits. Because the claimant was off work due to illness the weeks ending May 2; May 9, August 29, September 5 and September 12, 2020, she is not considered able and available for work. She was able and available for work the week ending April 25, 2020, and the week ending July 25, 2020.

DECISION:

The June 16, 2020, reference 01, decision is modified in favor of the claimant. The claimant's appeal is timely. The claimant is not able to work and available for work the weeks ending May 2; May 9, August 29, September 5 and September 12, 2020. She was able and available for work the week ending April 25, 2020, and the week ending July 25, 2020.



Julie Elder
Administrative Law Judge

November 20, 2020
Decision Dated and Mailed

je/scn